

**REQUEST FOR PROPOSAL FOR DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATION SERVICES ISSUED BY THE
OFFICE OF THE STATE TREASURER**

**CONTRACT NUMBER: TRE-CPM-21101- DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATION SERVICES**

I. OVERVIEW

By this request for proposal (“RFP”), the Office of the State Treasurer (“OST”), on behalf of the Plans Management Board (“Board”), is seeking proposals from qualified vendors (“Vendors”) to provide recordkeeping and administrative services for the three plans (collectively, the “Plans”) within the State’s Deferred Compensation Program authorized under Chapter 60A of Title 29 of the Delaware Code (the “DC Program”) and applicable provisions of the Internal Revenue Code (“IRC”) . This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ 6981 and 6982(b).

For minimum eligibility requirements, see Section IV.

A. Timetable

The tentative timetable for this RFP process is as follows:

EVENT	DATE
RFP Published	July 26, 2021
Deadline for Vendor Questions	August 2, 2021
Deadline for State Responses – Q&A Closed & Published	August 13, 2021
Deadline for Vendor Proposal Submission	August 20, 2021
Date for Invitation	August 2021
Finalist Presentations (Virtual)	September/October 2021
Finalist Selected	September 2021
Estimated Award Notification (Board Approval)	September 2021
Contract Negotiation and Execution	December 2021
Implementation (<i>if needed</i>)	TBD 2022

There will be no pre-bid meeting associated with this RFP.

This RFP is not an offer. The State reserves the right to cancel this RFP or modify the above RFP dates at any time, and for any reason.

Vendors are expected to fully inform themselves of, and by submitting a proposal shall be deemed to have read, understood and unconditionally and irrevocably accepted, all conditions, requirements, and specifications of this RFP and all attachments and exhibits, subject only to the exception process provided for herein.

B. Proposal to Remain Open

Vendors that submit a proposal in response to this RFP shall be deemed automatically to have consented and irrevocably agreed to keep any such proposal open for nine (9) months after the deadline for Vendors’ proposal submissions, or for such additional period as the State and any Vendor may agree upon. Rates and fees quoted in a proposal shall remain fixed and binding on the Vendor.

C. Contract Term

The original term of the contract between the successful Vendor and the State shall be five (5) years, beginning date to be determined, with OST having three one-year extension options, each exercisable in OST’s sole discretion, subject only to necessary Board approval.

D. Designated Contact

This RFP process will be managed by the Director of Contributions and Plan Management (the “Designated Contact”):

Name: John Meyer
Title: Director of Contributions and Plan Management
Address: 820 Silver Lake Boulevard, Suite 100
City/State: Dover, DE
ZIP: 19904
Email: Treasury_RFP@delaware.gov
Phone: (302) 672-6705

E. Submission of Written Questions

All written questions about the RFP shall be submitted to the Designated Contact listed above via e-mail on or before 4:00 p.m., prevailing Eastern time, on August 2, 2021.

Questions should be directly tied to the RFP and asked in consecutive order from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number, heading and section number to which it relates.

The State will provide written responses to questions from prospective Vendors by August 13, 2021. Responses will be posted publicly and will be available at <http://bids.delaware.gov>.

II. BACKGROUND

A. The Plans Management Board

The members of the Board serve as fiduciaries for and have ultimate oversight responsibility for the Plans. The Board is composed of 11 members:

- Four (4) public members appointed by the Governor;
- Two (2) state employees appointed by the Governor; and
- Five (5) ex-officio members - the State Insurance Commissioner, the State Treasurer, the Secretary of Education, the Secretary of Finance and the Director of the Office of Management and Budget.

The Board has established a standing Audit and Governance Committee and a standing Investment Committee. Committee membership includes full Board members and “outside” members selected for their unique subject matter expertise.

The Board meets at least four times a year. Each standing committee also meets at least four times a year.

B. The Office of the State Treasurer

OST serves as the administrative arm of the Board and coordinates all meetings of the Board and its committees. In addition, OST’s Contributions and Plan Management division markets and promotes the Plans, oversees vendors and performs certain operational functions for the Plans.

C. Deferred Compensation Program

The DC Program is intended to create a vehicle through which State employees may, on a voluntary basis, provide for additional retirement income security. *See 29 Del. C. § 6051.* The DC Program is in addition to pension and other benefit programs provided by law for employees of the State. *See id.*

The DC Program encompasses three distinct Plans: (1) the State’s deferred compensation plan under IRC § 457(b) (the “457(b) Plan”); (2) the State’s tax-sheltered annuity plan for certain education employees under IRC § 403(b) (the “403(b) Plan”); and (3) the State’s employer match plan under IRC § 401(a) (the “Match Plan”).

All three Plans are administered through an integrated platform offered by a single recordkeeper that serves as the DC Program manager (presently, Vendor). The record keeper, or one or more affiliates or third-parties, serves as the trustee for 457(b) Plan and Match Plan assets and the custodian of 403(b) Plan assets.

D. DC Plans – Overview

1. The 457(b) Plan

The 457(b) Plan is a supplemental retirement plan available to all regular full-time or part-time employees of the State who are otherwise eligible for State employee benefits plans, but not including individuals hired on a temporary basis (*e.g.*, “casual/seasonal” employees) or consultants. The State does not make contributions to the 457(b) Plan. Participants make contributions under salary reduction agreements, subject to annual contribution limits under federal law (presently, \$19,500). Participants who are 50 or older are eligible to make additional elective deferrals or “catch-up” contributions up to the annual limit under federal law (presently, \$6,500). Additionally, in the three years prior to the year of retirement, a participant, in lieu of regular catch-up contributions, is eligible to make “special catch-up” contributions in amounts up to twice the normal annual limit (presently, \$39,000). Participants may designate all or a portion of their deferrals as pretax or after-tax (Roth) contributions. Participants may also “roll over” into the 457(b) Plan certain distributions from other eligible retirement plans.

Distributions are permitted after the occurrence of one of the following events: (a) severance from employment; (b) the first day of the calendar year in which the participant attains age 59 ½; and (c) the participant demonstrates an unforeseeable emergency. Required minimum distributions commence at age 72 for most participants. Loans are not permitted.

Participants in the 457(b) Plan may invest only in:

- (a) Savings accounts in federally insured banking institutions.
- (b) U.S. government bonds or debt instruments.
- (c) Life insurance and annuity contracts issued by companies subject to regulation by the Delaware Insurance Commissioner.
- (d) Investment funds registered under the Investment Company Act of 1940; and
- (e) Securities that are traded on the New York Stock Exchange, the NASDAQ Stock Market, or the American Stock Exchange (n/k/a NYSE American).

See 29 Del. C. § 6057A.

As of December 31, 2020, the 457(b) Plan held approximately \$841 million of assets. As of December 31, 2020, there were 10,048 participants actively contributing to 457(b) Plan accounts and 16,570 accounts with balances greater than \$0.

2. The 403(b) Plan

The 403(b) Plan is a supplemental retirement plan, also referred to as a tax-sheltered annuity plan, covering most part-time and full-time employees of the State’s public schools, the Delaware Department of Education, and Delaware Technical Community College as well as Delaware State University. The State does not make contributions to the 403(b) Plan.

Contributions are made pursuant to salary reduction agreements, subject to annual contribution limits under federal law (presently, \$19,500). Participants who are 50 or older are eligible to make catch-up contributions up to the annual limit under federal law (presently, \$6,500). Participants may designate all or a portion of their deferrals as pretax or after-tax (Roth) contributions. Participants may also rollover into the 403(b) Plan certain distributions from other eligible retirement plans.

Distributions are generally not permitted until the occurrence of one of the following events: (a) severance from employment; (b) the participant attains age 59 ½; and (c) the participant requests and is entitled to a hardship withdrawal. Required minimum distributions commence at age 72 for most participants.

Prior to January 1, 2009, the 403(b) Plan permitted participants to take loans against their accounts. Loans are no longer permitted. Several impermissible loans made by legacy vendors after January 1, 2009 have been identified and have since been “grandfathered” through plan amendments.

For several decades, the tax-sheltered annuity program in this State was administered at the local district or school level and offered participants annuity products from more than 100 vendors. In 2009, in response to federal regulations, the State adopted a formal plan document and centralized oversight responsibility by vesting it in the Deferred Compensation Council (“DCC”), the predecessor to the Board.¹ That same year, the DCC limited the investment options available to participants to certain annuity and mutual fund products offered by Vendor and 13 other DCC-approved vendors (commonly referred to as “legacy vendors”).

In 2016, the Board, as successor to the DCC, selected Vendor as the sole record keeper for ongoing 403(b) Plan contributions. A portion of the assets formerly held by the legacy vendors (primarily in group contracts) was liquidated and transferred to Vendor for reinvestment in the new investment options offered by Vendor. As of December 31, 2020, the legacy vendors, including Vendor, presently hold approximately \$296.7 million of 403(b) Plan assets (primarily in the form of individual annuity contracts) outside of the Vendor platform (commonly referred to as “legacy assets”). The Board has certain limited obligations with respect to the legacy assets.

As of December 31, 2020, approximately \$195.5 million of 403(b) Plan assets were being managed on the Vendor platform, with another \$296.7 in legacy assets. As of December 31, 2020, there were 5,626 participants actively contributing to 403(b) Plan accounts on the Vendor platform and 7,002 unique participants with accounts on that platform. In addition, as of December 31, 2020, there were 6,863 legacy accounts.

3. The Match Plan

The Match Plan is a defined contribution plan under IRS § 401(a). The Match Plan was established in 2001 but has been frozen since mid-2008. Employees of the State and employees of State-supported instrumentalities are technically eligible to participate after enrolling in the 457 Plan and making

¹ Participants with individual contracts issued by a vendor prior to January 2009, typically referred to as the “orphan” accounts, have been excluded from the 403(b) Plan in accordance with federal Department of Labor guidance.

contributions to the 457(b) Plan for six months. The Match Plan is not available for temporary employees or consultants.

Under the Match Plan, subject to appropriations authorized by the General Assembly, the State contributes a certain amount per pay period to each participant who makes a deferral into the 457(b) Plan.² Between January 2001 and July 2008, the State contributed \$10 per pay period. In 2008, the General Assembly passed legislation that suspended contributions under the Match Plan. The State has not made contributions to the Match Plan since that time. It is unclear if or when the General Assembly will authorize contributions to resume.

Distributions are permitted after severance from employment, or when the participant reaches retirement age and in fact retires. Required minimum distributions commence at age 72 for most participants. Loans are not permitted.

As of December 31, 2020, the Match Plan had approximately \$25.6 million of assets and 8,991 participants.

E. Investment Architecture

The DC Program is voluntary, and participant directed. The DC Program has been designed to afford participants with a sufficiently diverse set of investment options that encompass a variety of risk/reward characteristics to enable participants to adequately diversify their supplemental retirement portfolios.

The DC Program presently includes a multi-tiered investment architecture providing participants with three overarching types or “tiers” of investment options:

Tier 1 – Default Options

Tier 1 includes a family of target date retirement funds that have been selected as the DC Program’s default investment options. Retirement date funds have the primary objective of providing asset allocation strategies for participants using a methodology that allows for a gradual reallocation (commonly referred to as a “glide path”) of assets to more conservative strategies as the participant approaches the fund’s stated retirement date. Tier 1 is designed to allow participants to choose the time horizon that works best for their specific financial goals by selecting the anticipated retirement year in the fund’s name.

Tier 2 – Core Options

Tier 2 consists of “core” investment options of actively and passively managed funds selected from among the major asset classes, as well as a fixed account product offered by Vendor. Participants who are comfortable selecting and allocating contributions among core investment options may do so. Participants also have the option of having their core investments selected and managed professionally by a third-party investment advisor (presently, Morningstar), subject to the payment of additional fees to the investment advisor and/or DC Program manager.

² The Match Plan does not allow participant contributions other than rollover contributions from another plan qualified under IRS § 401(a).

Tier 3 – Brokerage Window

Tier 3 offers a self-directed brokerage account option (presently offered through TD Ameritrade) that provides participants with the opportunity to allocate their contributions to investments not otherwise offered in the investment array. Participants in the 457 Plan and the Match Plan can invest in broad array of individual stocks and bonds, exchange traded funds and mutual funds. Participants in the 403(b) Plan are limited to investing in mutual funds through the brokerage window. Tier 3 is designed for participants who desire a more expansive universe of investment options, and who have the time and ability to build their own portfolios. Each participant who selects the brokerage account option is assessed an annual fee by the program manager, as may incur fees to the brokerage firm.

Attachment 6 contains additional details about the current investment lineup. The investment architecture and investment options are reviewed on a periodic basis as provided in the Board-approved Investment Policy Statement for the Plans within the DC Program, a copy of which is affixed hereto as **Attachment 8**.

III. Scope of Services

Anticipated requirements for the services requested pursuant to this RFP are set out in detail on **Appendix A**. The final scope of services for the contract with the successful Vendor will be subject to negotiation with OST and Board approval.

IV. The services requested include comprehensive administration, recordkeeping, communication and education, reporting, compliance, and investment management functions for all three Plans. The services also include third-party administration and aggregation services for the 403(b) Plan’s legacy assets. The successful Vendor will offer a best-in-class online platform. Minimum Eligibility Requirements to Submit a Proposal

Vendor submissions will not be considered unless the Vendor clearly demonstrates in the proposal how the Vendor meets the following minimum eligibility requirements for this RFP:

1. The Vendor should have provided recordkeeping, administration and communication/education services for defined contribution plans under IRC §§ 457, 401 and 403.
2. The Vendor must have a minimum \$20 billion in defined contribution assets under administration.
3. The Vendor must have a minimum of 500,000 participant plan accounts on their defined contribution plan recordkeeping system.

4. The Vendor must be providing services for at least 10 defined contribution plans that each have 10,000 or more participants.
5. The Vendor must be providing services for at least 10 defined contribution plans that each have assets in excess of \$250 million.
6. The Vendor must currently administer and provide recordkeeping for at least three active defined contribution plans for governmental entities and have done so for at least five years.
7. The Vendor must be able to coordinate information with, and aggregate participant data from, the 403(b) Plan legacy providers.
8. The Vendor must be a provider of the requested services.
9. The Vendor must acknowledge they do not have a material conflict of interest with OST, the Board or the State, or the Board's consultant, CAPTRUST.
10. The Vendor must be able to comply with all Delaware Department of Technology and information security requirements for securing participants account information and handling of contribution and eligibility feeds from various payroll systems, including PeopleSoft and ADP.

V. RFP Issuance and Submission of Proposals

A. RFP Issuance

1. Public Notice

Public notice has been provided in accordance with 29 *Del. C.* § 6981, as modified by the annual budget bill.

2. Obtaining Copies of the RFP

This RFP is available in electronic form only and as a courtesy, may be found at the following websites:

- <http://www.bids.delaware.gov/>
- <https://treasurer-delaware.bonfirehub.com/portal/>
- <http://treasurer.delaware.gov/requests-proposals/>
- <http://nast.org>
- <http://www.nagdca.org>

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to the Designated Contact. Communications must be submitted electronically to the following email address: **Treasury RFP@delaware.gov**.

5. Contact with Professionals

OST may retain consulting services or legal counsel to assist in the review and evaluation of this RFP and Vendor responses. Vendors shall not contact OST's consultants or legal counsel on any matter related to the RFP unless so instructed in writing by the Designated Contact. Vendors who make contact in violation of this provision may be disqualified from participation in the RFP process. Exceptions exist only for Vendors currently doing business with the State who require contact with such consultants or legal counsel in the ordinary course of business.

6. Contact with Other State Employees

Direct contact with State employees other than the Designated Contact regarding this RFP is expressly prohibited without prior written consent from the Designated Contact. Vendors who directly contact a State employee in violation of this provision may be disqualified from

participation in the RFP process. Exceptions exist only for Vendors currently doing business with the State who require contact with State employees in the ordinary course of business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity currently debarred or suspended from conducting business in the State or any other jurisdiction for any reason may be deemed ineligible to respond to this RFP.

8. Exclusions

The State reserves the right to refuse to consider proposals from Vendors who, or whose officers or staff:

- a) Have been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract.
- b) Have been convicted under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of integrity or honesty.
- c) Have been convicted or has had a civil judgment entered for a violation of any state or federal antitrust statute.
- d) Have failed:
 - i. Without good cause to perform under a recordkeeping and administrative services contract; or
 - ii. To perform satisfactorily in accordance with terms of any recordkeeping and administrative services contract
- e) Have violated ethical standards set out in law or regulation; and
- f) Any other cause determined by OST or the Board to be serious and compelling, and which undermines confidence in a Vendor's ability to perform under any resulting recordkeeping and administrative services contract.

9. No Press Releases or Public Disclosure

OST reserves the right to pre-approve any news or broadcast advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the State regarding any project or contract performance. Any such news or advertising releases pertaining to this RFP or any resulting contract or services shall require the prior express written permission of OST.

10. RFP Not an Offer

This RFP does not constitute an offer by OST, the Board or the State.

B. Submission of Proposals

1. Proposal Content

Each proposal must be submitted electronically and respond to the items outlined in this RFP. OST reserves the right to reject any non-responsive or non-conforming proposal.

The State discourages overly lengthy and costly proposals and prefers that they be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond what is sufficient to present a fully responsive proposal are not desired.

Proposals must be realistic and must represent the best estimate of time, materials and other costs, including the impact of inflation and any economic or other factors that are reasonably predictable. The State shall have no responsibility or liability for a Vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

A Vendor should describe in detail on **Attachment 3** (exceptions) any areas where it will be unable to provide services as requested or required in this RFP, and any exceptions the Vendor may have to the State's standard form of Professional Services Agreement and related exhibits attached hereto as **Appendix B** ("PSA"). *See* Sections V.B.17 and V.B.18, below. In addition, if a Vendor is able to provide the services exactly as requested or required but believes that there would be benefits (such as cost savings or improved service) to making adjustments to the services outlined, the Vendor should describe the adjustments and the benefits in its proposal. Acceptance or rejection of any or all exceptions or proposed adjustments is within OST's sole discretion.

Vendors must respond to all mandatory requirements presented in this RFP. The words "shall," "will," and "must" are used herein to designate mandatory requirements. Failure to respond to a mandatory requirement may, in OST's discretion, result in the disqualification of a Vendor from the RFP process.

2. Proposal Delivery

All proposals must be **received no later than 4:00 p.m., prevailing Eastern time, on August 20, 2021** (the “Proposal Deadline”). Responses received after the Proposal Deadline will not be considered.

Upload your proposal at: <https://treasurer-delaware.bonfirehub.com/portal>

Important Notes:

Logging in and/or uploading the file(s) does not mean the response is submitted. Vendors must successfully upload all the file(s) and must click the submit button before the Proposal Deadline.

Vendors will receive an email confirmation receipt with a unique confirmation number once the submission has been finalized. This will confirm that the proposal has been submitted successfully.

Each submitted item of requested information will only become visible to the State after the Proposal Deadline.

If the file is mandatory, you will not be able to complete your submission until the requirement is met.

Uploading large documents may take significant time depending on the size of the file(s) and your internet connection speed. The maximum upload file size is 1000 MB.

Minimum system requirements: Internet Explorer 11, Microsoft Edge, Google Chrome, or Mozilla Firefox. Java Script must be enabled.

Please contact Bonfire directly at Support@GoBonfire.com for technical questions or issues related to your submission.

Any proposal received after the Proposal Deadline shall not be considered.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments, or modifications to proposals shall not be accepted or considered after the Proposal Deadline.

4. Proposal Costs and Expenses

The State is not responsible for and will not pay any costs incurred by any Vendor in responding to this RFP, including, but not limited to, costs associated with proposal preparation, printing, and delivery, the interview/presentation process and contract negotiations.

5. Late Proposals

Proposals will be electronically date and time stamped upon receipt. Proposals received after the Proposal Deadline will not be opened or considered.

6. Proposal Opening

Timely proposals will be opened by OST personnel. Any unopened proposals will be returned to the proposing firm. Bonfire will create a public log containing the names of all Vendors that submitted proposals with the dates and times of the State's receipt of each proposal. Unless required by applicable law, the contents of any proposal shall not be disclosed prior to contract award.

7. Non-Conforming Proposals

OST may, in its discretion, reject any non-conforming proposals. Non-conforming proposals are defined as those that do not meet the material requirements of this RFP. OST shall have the authority and discretion to determine whether an RFP requirement is material, or a mere formality or non-substantive requirement.

8. Confidentiality of Documents

Except as noted below, all documents submitted as part of a Vendor's proposal will be treated as confidential during the evaluation process and will not be available for review by anyone other than OST, the Board, the Evaluation Team and counsel. There shall be no disclosure of any Vendor's information to a competing Vendor prior to award of the contract unless such disclosure is required by law or a court order.

The State is required to comply with the State of Delaware Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 ("FOIA"). Under FOIA, the State's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon written request. Once a proposal is received by the

State, it becomes subject to FOIA's public disclosure obligations, subject to any applicable exemptions.

The State wishes to create a business-friendly environment and procurement process. As such, the State respects that Vendors desire to protect intellectual property, trade secrets and other confidential business information (collectively referred to herein as "confidential business information"). If a Vendor feels that it cannot submit a proposal without including confidential business information, it must adhere to the following procedure or such proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the Vendor's confidential business information may be lost.

In order to allow the State to assess its ability to protect confidential business information, Vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendors may submit portions of a proposal considered to be confidential business information in a separate, electronic file labeled "Confidential Business Information" and include the specific RFP number. **The file must contain a letter from the submitting Vendor's legal counsel describing the information contained in the documents, representing in good faith that the information is protected from disclosure under FOIA, and briefly stating the reasons that such information is exempt under FOIA.**

Upon receipt of a proposal accompanied by such a separate, sealed electronic file, the State will determine whether the procedure described above has been followed. A Vendor's allegation as to its confidential business information shall not be binding on the State; rather, the State shall independently determine the validity of any Vendor designation as set forth in this section. Any Vendor submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. **Accordingly, Vendors assume the risk that confidential business information included within a proposal may enter the public domain.**

9. Sub-Contracting

Subcontracting is not permitted without OST's prior written consent. Any Vendor that submits a proposal contemplating the use of independent contractors or a subcontractor shall identify the purpose for such use, as well as the scope of work and other terms for any such arrangement. All independent contractors and subcontractors must agree in writing to be bound by the terms of the PSA and other agreements and documents governing the relationship between the Vendor and the State.

10. Discrepancies and Omissions

Vendors are fully responsible for the completeness and accuracy of their proposals, and for examining this RFP and all attachments, exhibits and addenda. Failure to do so will be at the sole risk of Vendors. Should a Vendor find discrepancies, omissions, or unclear or ambiguous language in this RFP, the Vendor should seek clarification from OST pursuant to the question and answer process detailed below. Protests based on any discrepancies, omissions, or unclear or ambiguous language will be disallowed if the same have not been timely raised in and preserved through the question and answer process below.

11. RFP Question and Answer Process

OST will allow written requests for clarification of the RFP. Vendors must submit written questions in the format specified below to be received by the Designated Contact by 4:00 p.m., prevailing Eastern time, on August 2, 2021. Questions must be submitted electronically to the following email address: **Treasury RFP@delaware.gov**.

All questions will be consolidated and answered in a single response that will be posted on the State's websites at <http://www.bids.delaware.gov/> by 4:00 p.m., prevailing Eastern time, on August 13, 2021, or such other date and time as may be prescribed by OST. Vendor names will not be attributed to questions in OST's response.

Questions should be submitted in a standalone Microsoft Word document in the following format:

Section number
Paragraph number
Page number
Text (being questioned)

Questions that deviate from this format may be rejected by OST, in its discretion.

12. State's Right to Reject Proposals

OST and the Board reserve the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be RFP specifications or contained in a Vendor's response), to assess the merits and qualifications of each proposal and Vendor, to solicit new or modified proposals on the same project, as OST and the Board may deem necessary or appropriate or in the best interest of the State.

13. State's Right to Cancel Solicitation

The State reserves the right to cancel this solicitation at any time during the procurement process, for any reason, or for no reason at all. The State makes no commitments, expressed or implied, that this process will result in a contract with any Vendor.

A Vendor's participation in this RFP process may result in the State selecting the Vendor to engage in discussions and negotiations of a formal contract. The commencement of such negotiations does not signify, and may not be interpreted as, a commitment by the State to execute a contract or continue negotiations. The State may terminate negotiations at any time and for any reason, or for no reason at all.

14. State's Right to Award Multiple Source Contracting

Pursuant to *29 Del. C. § 6986*, the State may award multiple contracts to two or more Vendors if the Board makes a determination that such action is necessary or appropriate or in the best interest of the State.

15. Notification of Withdrawal of Proposal

A Vendor may modify or withdraw its proposal by written request, provided that both the proposal and subsequent request is received by the Designated Contact prior to the Proposal Deadline. A withdrawn proposal may be revised and re-submitted and will be considered timely if the revised proposal is received by the Proposal Deadline.

All proposals received prior to, and which have not been withdrawn by, the Proposal Deadline shall become firm offers and shall not be revocable after that time except as provided in Section I.B, above.

16. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted at <http://www.bids.delaware.gov>.

17. Exceptions to the RFP

Any exceptions to the RFP or any attachments, exhibits or addenda, along with corresponding explanations and alternatives, must be noted and explained on **Attachment 3** and submitted with a proposal by the Proposal Deadline. Vendors that fail to timely and otherwise adequately preserve and assert exceptions shall be deemed to have waived all such exceptions and related arguments. The State has discretion with respect to the acceptance or rejection of exceptions.

18. Exceptions to the PSA

Attached hereto as **Appendix B** is OST's standard form of PSA and related exhibits. The terms of the PSA will govern the contractual relationship between a Vendor and the State. Any exceptions to the PSA, along with corresponding explanations and alternatives, must be noted and explained on **Attachment 3**. Vendors shall provide a redlined version of the PSA ("Redline") reflecting all requested changes. Vendors that fail to timely and otherwise adequately preserve and assert exceptions to the PSA shall be deemed to have waived all such exceptions and related arguments. The State is not bound by any provision of the form PSA and has discretion with respect to the acceptance or rejection of PSA exceptions.

19. Award of Contract

The issuance of a contract award ("Award") is subject to Board approval. The Board has the sole right to select the successful Vendor and approve the issuance of any Award and the terms of any PSA. The Board may (a) approve the issuance of an Award to a Vendor other than the Vendor who submitted the lowest priced proposal, (b) issue multiple Awards, or (c) withdraw the RFP and issue no Award. No Award or contract resulting from this RFP process shall be effective unless and until authorized by the Board.

An Award, if any, will be communicated to the successful Vendor and published only after (a) the Board authorizes the issuance of an Award, and (b) OST and each such Vendor execute a formal PSA on terms acceptable to OST and the Board. No Vendor will acquire any legal or equitable rights or privileges until the occurrence of both events.

The Award, the PSA and all attachments and exhibits, including all pricing information, and amounts and other details concerning any payments made to a successful Vendor shall be matters of public record subject to disclosure under FOIA.

VI. Proposal Requirements and Evaluation

A. Required Information

1. Index of Tabs

Vendors shall provide the following information with their proposals in the order listed below. Failure to respond to any request for information within this RFP may result in rejection of the proposal.

Tab A: Transmittal Letter. The letter must contain:

- Certification that the Vendor satisfies the minimum eligibility requirements set forth in Section IV; and
- A statement indicating whether the proposal contains confidential business information that is being submitted in a separate, sealed envelope in accordance with the procedure above.

Tab B: Questionnaire(s). Provide a detailed set of responses to the questions posed in **Attachment 1**. **All Vendors must respond to Attachment 1**. Responses should be both complete and concise.

Tab C: Confidential Information Form. Vendors should identify any documents or information that it considers confidential using the form set forth on **Attachment 2**.

Tab D: Exception Form. Provide a detailed listing of any exceptions to the RFP, including all attachments and appendices, including the PSA and its exhibits, using the form included as **Attachment 3**. Successful Vendors who do not take exceptions as required are deemed to have consented and irrevocably agreed to the terms of the RFP.

Tab E: PSA Redline & Vendor Documents. Include the Redline or similar comparative version of the PSA, a copy of which is affixed hereto as **Appendix B**, reflecting all proposed changes to the PSA, which changes may be accepted or rejected in OST's discretion. Successful Vendors who do not propose changes are deemed to have consented and irrevocably agreed to the PSA. Vendors must include at Tab E any other form of agreement or document that Vendor, if successful, may desire to be a part of the parties' contractual arrangement.

Tab F: Business References. Provide at least three business references using the form provided in **Attachment 4**.

Tab G: Performance Standards. Please include your response regarding fees put at risk during the conversion and ongoing service guarantees. See **Attachment 7**.

Tab H: Recommended Stable Value/Fixed Account Product.

Tab I: Draft Implementation Plan. Vendors responding to this RFP must attach a draft implementation plan of their client conversion processes and timelines.

2. **Furnishment of Proof**

Prior to Award, the successful Vendor shall furnish OST with proof of (a) all necessary business licenses, including a valid State business license, (b) certification(s) necessary to perform services identified herein, and (c) proof of insurance required under the PSA.

B. Proposal Evaluation

1. Initial Screening

The Designated Contact and/or designated OST staff shall perform an initial screening of all proposals submitted by qualified Vendors and evaluate them for timeliness and compliance with the minimum qualifications and other requirements set forth herein. OST shall have discretion with respect to any such determination. Proposals that pass the initial screening shall be forwarded to the Evaluation Team for scoring and evaluation as provided herein.

2. The Evaluation Team

An evaluation team (“Evaluation Team”) that may be composed of representatives from OST, the Board and other State entities will evaluate qualified Vendor proposals meeting all RFP requirements based on the quantitative and qualitative criteria set forth below. Neither the lowest priced, nor the highest scoring proposal, will necessarily be selected. OST may in its discretion remove or add members of the Evaluation Team.

3. Evaluation Criteria

Vendors must review the evaluation criteria below and provide responses that address the criteria. The Evaluation Team will not make assumptions about Vendor capabilities.

The State has outlined the services it will require in Section III and **Appendix A**. In formulating responses, Vendors are encouraged to suggest additional or modified services in their proposals if such additional or modified services will provide a benefit to the State.

Proposals that meet submission requirements of the RFP will be evaluated and scored based on the criteria and points system set forth in the table below.

Questionnaire Section	Evaluation Criteria	Point Value
I	Vendor History and Depth of Public Defined Contribution Plan Experience	10
II	Scope of Vendor Operations and Ability to Meet Full Range of Requested Services	20
III	Plan Sponsor Experience: Website Access & Quality, Administrative and Compliance Support, Relationship Management, Performance Reporting and Industry/Trend Evaluation and Communication	30

IV	Participant Communication & Education: Custom Website, Voice Response System and Participant Call Center; Commitment to Customer Service/Issue Resolution; Custom Communication and Education Capabilities, Branding, Onsite Representatives and Guidance/Advice Tools	30
V	Overall Cost to Plans and Plan Participants	10
Total Points		100

4. **Proposal Clarification**

The Evaluation Team may communicate with a Vendor in order to clarify uncertainties or gain better understanding of a proposal. The Evaluation Team may require Vendors to modify or supplement their proposals as a result of such communication. Vendors must provide all requested information in a timely manner, which shall mean on or before any deadline established by the Evaluation Team.

5. **Communication with References and Past or Present Clients**

The Evaluation Team may communicate with all references provided by a Vendor on **Attachment 4** and may use information gained thereby in the evaluation process. In addition, the Evaluation Team may communicate with any known past or present client of a Vendor outside of the reference list, and any information gained may be used in the evaluation process. Vendors that submit a proposal in response to this RFP shall be deemed to have (a) waived any confidentially or other restrictions that may limit in any way a reference or former or current client's ability to convey information relevant to the evaluation process, and (b) consented to all such communications with references or former or current clients.

6. **Oral Presentations**

The Evaluation Team, with or without prior consultation with OST or the Board, may in its discretion invite one or more Vendors to make in-person or virtual presentations to the Evaluation Team. Presentations are tentatively scheduled for September/October 2021. **Any costs associated with presentations will be borne by the Vendor.** The State requests that all individuals who are expected to be assigned to this engagement be in attendance.

VII. **Contract Process**

A. **Formal Contract**

A Vendor that is selected as a finalist and invited via written notification from OST (the "Invitations") to enter into negotiations concerning administrative and recordkeeping services will be expected to enter into a formal contractual arrangement with OST in the form of the PSA attached hereto as **Appendix B** (the "Contract"). The Contract may include Vendor-drafted agreements or documents that are subject to negotiation and which shall be acceptable to OST in its sole discretion, subject only to necessary Board approval. A Vendor's attempt to

negotiate pricing or other material Contract terms that were not disclosed through the exception process and detailed in the Vendor's response may result in the termination of negotiations with, and/or the disqualification of, such Vendor.

B. Modification of PSA

In its discretion, OST may consider and accept proposed modifications or additions to the PSA, whether or not raised in an exception, subject to necessary Board approval.

C. Time Frame

A Vendor who receives an Invitation must execute a Contract within sixty (60) business days from the date of the Invitation, unless such period is extended by OST, in its discretion. If no Contract has been executed by the applicable deadline, OST may in its discretion cancel the Invitation and enter negotiations with another Vendor.

D. Inception of Services

Absent OST's prior written request or approval, no Vendor is to begin providing services prior to the issuance of an Award.

E. Cancellation of Award

If a Vendor that receives an Award fails to commence providing recordkeeping services when due under the Contract, OST on behalf of the Board, without liability, may cancel and annul the Award and terminate any Contract. In such event, an Award under this RFP may be made to another Vendor.

F. Collusion or Fraud

Vendors may not restrain competition by agreement to offer a fixed price, or otherwise. By responding to this RFP, each Vendor shall be deemed to have represented and warranted that: (i) its proposal is not made in connection with any competing Vendor submitting a separate response to this RFP; (ii) its approval is in all respects fair and without collusion or fraud; (iii) the Vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and (iv) no employee or official of the State, the Board or OST participated directly or indirectly in the Vendor's proposal preparation.

If at any time, whether prior to or after the issuance of an Award, OST determines that any of the foregoing representations was untrue when made or subsequently became untrue, OST may, without liability, cancel and annul the Award and terminate any Contract. In such event, an Award under this RFP may be made to another Vendor.

G. Lobbying and Gratuities and Contingency Fees

As required by 29 *Del. C.* § 6903(b), the successful Vendor is deemed to have sworn under oath that the Vendor has not employed or retained any company or person to solicit or secure a Contract by improperly influencing OST or the Board in this procurement process. In addition, the Vendor represents and warrants that it has not directly or indirectly paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for Vendor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from an Award or Contract.

For breach or violation of the foregoing oath, representation or warranty, OST, in its discretion and without liability, shall have the right to cancel and annul any Award and terminate any Contract, or deduct from the Contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

H. Solicitation of State Employees

During the RFP process and for the term of the Contract, Vendor shall not, directly or indirectly, solicit any employee of the State to accept employment with the Vendor, its affiliates, or any person acting in concert with Vendor, without prior written approval of OST.

VIII. Attachments and Appendices

The following items are provided for use in your response. Attachments are required forms to be submitted with your proposal as described in this RFP. Appendices are provided as additional detail or information to assist in your proposal response.

Attachments

- Attachment 1:** Vendor Questionnaire
- Attachment 2:** Confidential Information Form
- Attachment 3:** Exception Form
- Attachment 4:** Business References
- Attachment 5:** Legacy Vendor List
- Attachment 6:** Current Investment Lineup
- Attachment 7:** Performance Standards
- Attachment 8:** Investment Policy Statement (DC Program Plans)
- Attachment 9:** Cyber Liability

Appendices

- Appendix A:** Scope of Services
- Appendix B:** Form of Professional Services Agreement
- Appendix C:** Program Audit Requirements
- Appendix D:** File Layouts

ATTACHMENTS

ATTACHMENT 1: Vendor Questionnaire

CONTRACT NUMBER: TRE-CPM-21101-DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

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. The response should reflect the bidder's understanding of the stated requirements and the bidder's qualifications and experience in providing the required services. Please provide succinct answers.

I. Vendor History and Depth of Public Defined Contribution Plan Experience

1. Briefly provide an overview of your company and the history of the organization. Provide the number of years' experience your company has in providing administrative services for defined contribution plans.
2. Indicate the number of, and total assets within, public 457(b), 403(b), and 401(a) plans that you currently service broken down by the following number of participants:

Public Plan Type		457(b)		403(b)		401(a)	
Total Plans/Assets	# Plans	Assets	# Plans	Assets	# Plans	Assets	
Under 1,000							
1,000 – 5,000							
5,000 – 10,000							
10,000+							

3. What are your client retention statistics for each of the last three years? What is the historic average duration of client relationships for the company? For those clients who discontinued services, what percentage left due to issues pertaining to services provided by the company?
4. Describe any parent/subsidiary/affiliate relationships. Are you currently participating in any alliances or joint marketing efforts? If so, describe in detail. List all subcontractors proposed to be used to provide any of your services, and fully describe the nature of the services to be provided and the subcontractor's experience and expertise.

5. Are there any pending agreements or any active or contemplated negotiations or intentions to merge or sell your company or any portion thereof or to acquire another company? If yes, please explain.

6. Has your company or any individuals been involved in litigation, regulatory or other investigations in the last five years or are there any pending litigation, regulatory or other investigations arising out of your performance or participation in servicing a client or delivering services similar to those outlined in the Scope of Services in this RFP? If so, please fully describe, including an explanation of the resolution of the matter, whether formally or by settlement. Exclude routine interpleader actions, garnishments and similar routine matters involving participants and beneficiaries that do not reflect on your performance of your contract.

II. Scope of Vendor Operations and Ability to Meet Full Range of Requested Services

Data Security

1. Describe your company's data security team. Indicate the size, roles and responsibilities of personnel.

2. Describe the system protocols in place to ensure the integrity and security of records, data, and information and to prevent data theft. Has there ever been an instance where any of your systems were compromised? If so, how was client communication handled? How does your company define a data breach? What is your corporate policy in notifying clients and participants if a data breach has occurred? What services, if any, are offered to clients and participants in the event of a data breach or potential data breach?

3. Describe your company's system back-up, security, and disaster recovery procedures. Are files archived and stored at an off-site location? If so, where is the location? Have procedures been tested? When did you last perform a full-scaled disaster recovery test? If you are not using backup, what do you use? If using a hot or warm site, provide the disaster recovery and business continuity plans. How is that controlled?

4. How does the company use independent, third-party testing and benchmarking to ensure compliance with security protocols? Describe how and the frequency of which third-party security audits are conducted. How does the company assess potential risk associated with vendors and subcontractors? How does the company ensure security of data handled by subcontractors?

5. Will any participant data be sent offshore? Will any work be conducted by subcontractors or divisions of the company that are domiciled outside the United States? If yes, please describe the nature of the services provided and how your company ensures security of the data.

6. What security features are in place to ensure only the correct participant is given personal information? Describe your Personal Identification Number (PIN) generation capabilities (for new participants) and on-going PIN administration capabilities. Does your website have multi-factor

authentication? Does your website have self-provisioning for maintaining multi-factor authentication?

Implementation Strategy (Non-Incumbents only)

1. Provide a draft implementation plan that is customized to the State that illustrates your firm's ability to implement this RFP's Scope of Services over the five-month period ending March 1, 2022. The plan should include key milestones and other necessary steps in the process. Describe your strategy for implementation and the rationale behind your proposed plan. Please Add as **TABL** in your response

2. In your experience, what do you see as the major areas of operational and compliance risk in implementing this plan? Please describe how you would assist OST to ensure a smooth implementation for both employers, participants, and the OST staff. Please incorporate the use of a third-party administrator and compliance services as well as information sharing agreements for the State's legacy 403(b) vendors.

3. Identify comparable plan conversions in which you have been involved. How many conversions and implementations has your company conducted during the past five years involving 5,000 participants or more? Describe any transitions been from the incumbent provider. In your experience, what are the typical causes of delays during the conversion process? Provide solutions as to how you would overcome or minimize any delays?

4. Describe how you would propose to communicate the implementation to participants. What communication strategies have you used to onboard clients similar to OST? What methods of communication have worked well and where have you seen issues arise? Please include sample materials as an attachment with your proposal.

5. Describe your experience with accepting and recordkeeping historical data (e.g. annual participant balances, rates of return) from former Vendors on your system. Describe the level of historical data you typically retain from a former Vendor during a transition and how this data is archived.

6. Will there be a blackout period? If so, for how long? Are there any risks or challenges in reconciling data for the plans during the transition process? Assume complete data is received from the prior Vendor in good order. Fully describe all components and restrictions of the blackout period. Indicate a minimum and maximum number of days.

7. Please agree that your firm, if selected as Vendor, will put "at risk" a stated dollar amount for meeting agreed-upon performance standards after receiving data in "good order." Please review the sample performance standard grid in **Attachment 7**. In addition, please agree that your firm, if selected as Vendor, will put at risk 10% of its annual fees based on agreed upon performance standards. The satisfaction of each benchmark should be reported by the applicant on a quarterly basis for assessment by OST.

8. The OST would also like the selected Vendor to commit to increasing the overall plan participation rate. Assuming you will be provided access to all eligible employees and the ability to distribute

mass mailing and other communications, to what level of participation increase are you willing to commit? What amount of fees will you place at risk for failure to meet this standard?

Client Service Team

1. Describe the service team assigned to OST's plans including the names, titles, and bios for each of the following team members. Provide the tenure, number of clients and number of plans for each and their experience working with public defined contribution plans.

- Client Relationship Manager
- Transition / Implementation Manager
- Day-to-day Account Executive
- Communications Specialist
- Compliance Specialist
- Field education representatives

Operational and Systems Capabilities

1. Please describe the recordkeeping system your firm uses to administer defined contribution plans. How many years have you been using the system and how often are these systems upgraded? What was the date of the last major upgrade? What was the upgrade, and did it disrupt client services at any point? If so, how and what was learned to prevent a similar issue from occurring in the future?

2. Describe how your hardware and software environments are kept in compliance with laws, regulations, industry best practices, and new technologies.

3. Will your system allow data transmissions for member defined benefit information to be incorporated into an annual statement and/or displayed on the participant website?

4. Explain how errors are handled through your recordkeeping system, including data transmission errors, for:

- Enrollment
- Contributions
- Withdrawals/Distributions (both over and under-payments)
- Transfers
- Rollovers
- Allocation of earnings
- Tax reporting

5. Describe how your company will support the program audits as outlined in **Appendix C** and confirm that you are able to accommodate this.

6. The OST would also like the selected Vendor to commit to increasing the overall plan participation rate. Assuming you will be provided access to all eligible employees and the ability to distribute

mass mailing and other communications, to what level of participation increase are you willing to commit? What amount of fees will you place at risk for failure to meet this standard?

III. Plan Sponsor Experience

Standard Reporting

1. Please indicate what reporting is available to OST on the participant and on a plan level. To what extent can these proposed reports be customized? Confirm your ability to provide ad-hoc reporting and describe the limitations, if any, of what OST can request. What is the process for developing customized report formats and delivery mechanisms customized to client requests? What are the timelines for generating and delivering reports by hard copy? By electronic delivery? Include your organization's average response time for a client to receive standard reports and special reports.

Administrative and Compliance Support

1. Will you be able to utilize the current file layouts in **Appendix D** being used by OST? Is there any information in the layouts that should change, or is there new data that should be incorporated in order to take advantage of the full range of your outsourcing services (e.g., file requirements)? Indicate how you plan to assist OST in establishing processes to assume administrative tasks and indicate areas where you will still require involvement from the plan sponsor.

2. Will you be able to provide a data aggregation service for the 403(b) Plan to monitor compliance with current plan provisions? Describe how you anticipate working with the frozen legacy Vendors to ensure compliance with requirements is achieved and how successful you have been in assisting other clients with similar situations. Confirm you can handle multiple file feeds from the State's legacy vendors. See **Attachment 5**.

3. Can your system handle offering participants the option to choose between e-mail and mail delivery of mailings? How would you go about providing this service? What data would you need from OST to accommodate these options?

4. What is your document retention policy for participant requests? (i.e. distribution requests, beneficiary designations, etc.)

5. Describe how you help administer the distribution of small account balances of terminated participants with assets between \$1,000 to \$5,000. Is there a cost to distribute the small accounts if directed by the Plans? What outside Individual Retirement Account providers can you partner with to accept these balances. Please indicate in the cost proposal if there are additional fees if OST wishes to partner with an IRA provider of their choice.

6. Describe how you monitor and communicate Required Minimum Distribution ("RMD") requirements? Does your RMD process include automatic distribution of the minimum required amount if participants do not respond to your notifications, or do you require action by OST?

7. Describe your process for handling stale-dated checks. Are you able to issue direct deposits or electronic funds transfer into an employee's bank account in order to avoid the challenges with outstanding checks?

8. Are you able to track the IRC annual limits for participants who elect both pre-tax *and* after-tax Roth employee elective deferrals? Do you also have the ability to aggregate and track 457(b) 3-year catch up contributions? Describe your process in notifying the Plan Sponsor should a participant exceed the limit. Will your system require manual approval by OST prior to processing contributions? What steps do you take to prevent excess contributions?

9. As part of your full suite of outsourcing services, do you distribute the universal availability notice for eligible participants in the 403(b) Plan? Are there any additional fees for this service?

10. What notification will you provide OST when there are legislative or regulatory changes that could impact the plans? Will your organization provide OST specific updates on federal legislative changes? If yes, how frequently? Provide samples of any regulatory updates provided to clients. Describe in detail how your company ensures compliance with regulatory and legislative changes? Describe in detail how your company ensures that the recordkeeping system remains in compliance with all relevant regulations?

Online Systems

1. Describe the account services and transaction capabilities available through your participant website. What are routine maintenance periods for your website? Provide statistics for the last 12 months on down time other than routine system maintenance.

2. What access is provided to OST via the website, *i.e.*, transactional or informational services? What access is available to participating employers? Do you offer a participant view to the administrator? Describe any transactional capabilities for employers via the website.

3. Are there any improvements to your Internet/web capabilities expected to occur in the next three years? If so, please describe.

Customer Service and Issue Resolution

1. Does your company conduct client specific surveys to measure satisfaction with its administrative services? If so, how frequently do these occur? Please provide the results of your most recently completed client survey. How does your company plan to measure and evaluate the satisfaction of participants, employers and OST? How does your company intend to report the results of such measurement to OST? Please provide your most recent "net promoter score" if available.

2. How are participant grievances/complaints handled? Describe your process, including communication with the participant as well as how you collaborate with OST for remedy. What are your customer support capacities to respond to and troubleshoot participant technical difficulties?

IV. Participant Communication & Education

Microsite and Website

1. Describe the vision behind your web design as well as the attributes of the site that may be customized for the program, such as layout, colors, images, and materials. Please note that OST expects the website to be fully branded to its Plan and flexible enough to be updated regularly. Confirm your ability to accommodate. How do you envision the relationship (navigations, functions, etc.) between OST's website and your website?
2. What communication and investment materials are offered on the participant micro-site? Will these differ from materials available once a participant logs into his/her account?
3. Describe how your website supports online enrollment. Identify and provide access to sample enrollment instructions prior to any log-in to the system or provide access that you propose to give to a new employee desiring to enroll online for the first time. If new participant data cannot be provided in advance of enrollment, describe your solution to allowing online participant enrollment without delay. Can you receive participant beneficiary designations via online data entry? Via paper form?
4. Describe any other tools and services available to participants through the participant website such as calculators and financial modeling tools. Describe any other materials or technology you have available (smart phone apps, videos, etc.) that can be provided to engage and assist participants in enrolling in the plan and understanding their benefits.
5. Does your website offer an aggregation tool whereby data from other financial institutions can be integrated by providing password information for other Vendors? If so, can this data be included in financial modeling tools to allow participants to see their full retirement picture?
6. OST is interested in providing participants with a way to see their defined benefit ("DB") and all defined contribution ("DC") information together – side by side. How would you approach providing a single view of the information maintained by OST with the DC data maintained in your recordkeeping system? Describe your experience displaying side-by-side views (DB and DC) for other similar sized clients.

Call Center and Voice Response System

1. Where are your call centers located? What hours do the call centers operate? Do they offer investment guidance to participants? Will the call center be dedicated to the State's plans?
2. Provide statistics related to actual performance for the last three calendar years:
 - Number of calls received
 - Percentage of calls answered
 - Average length of calls
 - Average response time
 - Percentage of calls requiring follow-up

- Call abort rate

3. How do you ensure that your Phone Service Representatives are providing participants with accurate information regarding the plans and their provisions? Do you routinely audit your system to ensure provisions are captured accurately to avoid misinforming participants? Are all conversations recorded? If yes, can the Plan Sponsor monitor recordings? How long does your organization maintain recordings? Are you willing to periodically provide sample calls for review by OST?

4. Does your organization use the AT&T Language Line or an equivalent service to assist participants who speak a language other than English or Spanish? Do you offer services for the deaf or hard of hearing?

5. What security procedures do you use at your customer service center to authorize transactions that a member makes over the phone?

6. Will participants have access to a Voice Response System (“VRS”) that will allow them automated access to their account information and ability to make changes? Will you provide customization for the VRS? Is yes, briefly describe the level of customization available. What security procedures do you use to authorize transactions the participant makes using the VRS?

Participant Communication & Education

1. Describe your firm’s philosophy and approach to servicing public 457(b), 401(a/k) and 403(b) plans and communicating and educating plan participants. How do you plan to design a communication and education program to target participants across the three counties, New Castle, Kent and Sussex? Confirm if you are able to provide a local office within the State of Delaware in support of the Plans? Specify the location and hours of operation. Confirm that the office will be staffed by the field representatives discussed above.

2. How many field service representatives will provide services to OST? Will they be tenured employees of your firm? Describe the licensing and training each field service representative undertakes prior to working his/her position. How are these representatives compensated? Provide the compensation structure for these individuals. For how many clients will OST’s representatives be responsible? Express the cost of each representative in terms of dollars and basis points and describe how you will ensure fees for one plan are not incurred by the others. Will the representatives have the ability to sell retail products outside of the engagement with the State?

3. Describe a typical one-on-one consultation you would offer a participant. How would your representatives respond to questions about the plans regarding the investment options, what information would be provided, and the approach that the representative would take toward making suggestions or giving advice? Describe how your representatives will ensure that inquiries are appropriately directed to another party if needed.

4. Can you provide onsite education to accommodate those employees who work evening and night shifts? Can you accommodate Spanish speaking employees and / or deaf and hard of hearing? Is

there an additional charge for such accommodation? Do you have the ability to offer an online scheduling tool to enable participants to sign up for one-on-one meetings or group education sessions?

5. Would your representatives be able to provide participants with an approach that considers an individual's entire financial portfolio, including factors such as outside investments, college savings, debts, other assets, and other benefits?

6. Describe how you would communicate with participants to explain the benefits of consolidating accounts from legacy vendors? Do you employ a team of educational specialists who could assist with the transition? Please also describe your plan to target participants each year of the contract to incentivize them to transfer assets to the new program, keeping in mind the surrender charges associated with many of the contracts. Provide an example of how you have worked with other organizations to assist in this manner and describe the success of your methods.

7. What customization features do you provide for employee communication campaigns? Do you offer branding capabilities with your communication and education materials?

8. Can your organization provide a customizable and consolidated participant statement that will reflect the balances of all three plans, if applicable? Provide a sample attachment of what this statement will look like and describe the areas where OST has flexibility in design and content.

9. Do you provide, or are you able to provide, an annual benefits statement for each participant consolidating all assets in the Plans and including a proposed asset allocation mix, based on available data? Does this also include Social Security, defined benefit plan projections and outside plan investments? Could this statement also include a projected shortfall in the level of assets anticipated to be needed for retirement and the impact of increases to salary deferral contributions on this shortfall? Will this statement be available upon transition?

10. Please describe your plan to work with OST to develop communications, tools and other resources that can be provided to employers to assist in their understanding of the plan and responsibilities. Please describe your experience working with other clients with multiple employers.

11. Please provide an overview of your ability to participate in periodic webinars or conference calls to provide employers with training on the systems and remittance processes. Please share any experience you have working with other clients to train employers on your systems.

V. Investments and Overall Cost to Plan and Plan Participants

Investment Management Flexibility

1. Confirm you will offer an open architecture, mutual fund-based platform to OST. Can you offer a non-proprietary product as the stable value/fixed account?

2. Describe the process OST may follow to replace one or more funds in the investment line-up during the contract period. Confirm that there no cost to change funds. Provide an expected timeline for any fund changes.
3. Describe how your recordkeeping system handles short-term fund redemption fees for funds in the Plans. How will you communicate a potential wash-sale rule violation to participants?
4. Can you administer the existing fund lineup with current share classes as indicated in **Attachment 6**? Would you need to sign or update any investment manager selling agreements to offer these investments and share classes? Provide comments on the existing fund line up and provide recommendations, if applicable, to make the line up better.
5. Propose a separate account stable value/fixed fund for the Plans. What is the contractually guaranteed minimum interest rate for this account? Will this minimum rate be guaranteed for the life of the contract? If not, what is the guarantee period? What are the restrictions to withdraw assets from this account for a distribution or a transfer to another provider? Include a copy of the contract as **Tab J** with your proposal submission.
6. Are there specific breakpoints in assets, participants, or asset per participant, whereby the plan might experience a reduction in fees? How and when would this be communicated to the participants?
7. Does your organization offer a retirement income or in-plan annuity product? Describe the features of the product, including the portfolio composition, and the guarantor's credit ratings.
8. Does your company offer a Managed Account option? Describe this service, including whether it employs proprietary software and the extent to which it is a Registered Investment Advisory program. What percentage of your defined contribution retirement plan clients use your managed account? What percentage of the participants in those clients are invested in the managed account program? What is the fee for using this program? Does your company share in this fee? If so, what is your percentage share of the fee?
9. Does your company offer a self-directed brokerage option? If so, which vendor(s) do you use? What is the fee for using this program? Does your company share in this fee? If so, what is your percentage share of the fee? Does your company allow a participant to contract with an independent advisor and to pay for these services through self-directed brokerage assets? Please describe this process in detail in terms of assessing fees, including placing caps on fees paid to these advisors.
10. Discuss how your organization would transition participants currently utilizing the self-directed brokerage option. Does your self-directed brokerage account require any minimum balance? Describe what happens if minimum balances are not maintained. Is the self-directed brokerage account listed as an investment option or do participants manually have to move their money to the account?

11. Can your brokerage account restrict a participant from certain investment types that OST deems as inappropriate for retirement plans (*e.g.*, no precious metals, futures, margin trading, options, commodities, collectibles, short sales, real estate, etc.)? Does it prevent participants from using investments that are not permitted in the plan type (*e.g.*, 403(b))? Discuss how you will monitor and enforce any such limitations requested by OST?

12. How are self-directed brokerage account balances treated for purposes of the following:

- Regular benefit or unforeseeable emergency / hardship distributions
- IRC required and minimum distributions
- Domestic relations orders
- Death benefit claims
- Beneficiary designation

13. Do participants receive a detailed account summary of all assets held in the brokerage account? How often?

14. What information from the self-directed brokerage account is reflected and reported on the core participant quarterly statement? On quarterly plan-level reports provided to the plan sponsor? Will the State receive a consolidated box position of all self-directed brokerage securities owned by participants?

Costs to the Plans and Participants

1. What is your required revenue for providing the scope of services described in this RFP? Provide required revenue both as a percentage and as a per participant charge. For how long is this revenue requirement guaranteed?
2. Please indicate if your required revenue is contingent on the use of proprietary fixed account. If so, please identify the revenue required without a proprietary fixed account and include a non-proprietary alternative.
3. OST wishes that all fees will be charged explicitly and directly against participant account balances. Our line-up will include non-revenue sharing share classes. Please confirm you have the ability to charge participants explicitly and can show fees paid on participant statements as a hard dollar amount and as a percentage of assets.
4. OST wishes for the State's revenue derived from the plan participant accounts to be placed into an account to offset Plan-level expenses or reallocated back to participants. Confirm that this is included in your proposal. Assuming so, confirm the below mechanics of this account:
 - When are the fees allocated into this account?
 - What is the process for using funds in this account? Does the plan sponsor or a 3rd party reach out to you to request a payment? Can a recurring automatic payment schedule be established?
 - To whom can payments from the accounts be made? Can they all be paid directly to OST? Can payments be made directly to a 3rd party? How will you assist OST in preventing the use of the account for non-qualifying expenses?
 - What documentation is provided to OST with respect to the account value and any transactions? What is the timing of this documentation? Does the account value need to be "zero-ed" out on any given schedule?
 - What happens to the account if OST changes providers?
5. Describe any additional direct fees in detail, including, but not limited to, the following:
 - Plan Set-up / Transition
 - Voice Response System (setup/ongoing)
 - Customer Service Center (setup/ongoing)
 - Internet / Web Services / Micro-site (setup/ongoing)
 - Custodial Trustee Services
 - 403(b) data aggregation and common remitter services
 - Participant Investment Advisory / Guidance Services
 - Participant Managed Account Services
 - Self-Directed Brokerage Services – Plan / Participant
 - Plan Document Services
 - General Compliance Services
 - Check / Wire Processing

- Form 1099R
- Hardship Withdrawal Qualification
- DRO Qualification / Administration
- Participant Statements / Confirmations
- Customized enrollment / communication materials
- Account close out
- Other (be specific)

ATTACHMENT 3: Exception Form

**CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATIVE SERVICES**

Proposals must include all exceptions to the specifications, terms or conditions contained in this solicitation, including all attachments and appendices. If Vendor is submitting the proposal without exceptions, please state so below.

- By checking this box, Vendor acknowledges that it takes no exception to the specifications, terms or conditions found in this solicitation, including the terms of the PSA.

Paragraph # and page #	Exceptions to specifications, terms or conditions	Proposed Alternative

Note: Use additional pages as necessary.

ATTACHMENT 4: Business References

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

List a minimum of four business references. At least three (3) of the references should be from government entities that most resemble the relationship you envision with the State. Business references should include the following information:

- Business name and mailing address
- Contact name, phone number and email address
- Number of years doing business with
- Type of work performed

Please do not list any entity, officer or employee of this State as a business reference.

If you have held a contract with the State within the last 5 years, provide a separate list of the contract(s), describe the scope of work performed and include the name, title, phone number and email address for your primary contact for each engagement.

ATTACHMENT 5: Legacy Vendor List

**CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATIVE SERVICES**

State of Delaware Legacy Vendors as of 12/31/2020

Vendor	Assets	Participant Accounts
AIG (Valic)	\$18,708,591.52	800
Brighthouse Life Insurance (formerly part of Met Life Annuity)	\$25,750,395.96	548
Equitable	\$59,825,019.04	1832
Great American	\$3,282,186.62	85
Horace Mann	\$30,966,755.41	835
Kades-Margolis	\$1,116,333.25	20
Lincoln Financial Group	\$1,210,220.16	12
Lincoln Investment Planning	\$2,335,649.86	92
Met Life Annuity	\$63,749,358.39	980
New York Life	\$2,775,857.83	201
Penn Serve Plan Svcs. (Foresters)	\$762,990.21	34
Reliastar Life Insurance (formerly part of Voya)	\$209,284.93	4
Security Benefit	\$69,693,164.59	1102
Symetra Life Insurance	\$7,075,324.35	136
Mass Mutual (The Hartford)	\$5,310,911.43	91
Voya (Educator's Direct)	\$3,878,846.21	91
Totals	\$296,650,889.76	6863

Attachment 6: Current Investment Lineup

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

Fund Name	Ticker	Annual Contribution		Assets			
		01/01/2020 - 12/31/2020		12/31/2020		12/31/2019	
Fixed Account							
Voya Fixed Plus Account III		\$1,280,170	2%	\$23,434,576	2%	\$19,122,547	2%
Subtotal		\$1,280,170	2%	\$23,434,576	2%	\$19,122,547	2%
Money Market							
Vanguard Federal Money Market Investor	VMFXX	\$1,345,942	2%	\$23,019,406	2%	\$15,563,215	2%
Subtotal		\$1,345,942	2%	\$23,019,406	2%	\$15,563,215	2%
Bond							
PIMCO Total Return Instl	PTRX	\$474,896	<1%	\$6,757,881	<1%	\$4,350,411	<1%
Vanguard Inter-Term Bond Index I	VBIMX	\$1,445,564	2%	\$22,481,765	2%	\$16,508,469	2%
Templeton Global Bond R6	FBNRX	\$221,524	<1%	\$0	0%	\$2,124,688	<1%
Subtotal		\$2,141,984	3%	\$29,239,646	3%	\$22,983,568	3%
Large Cap Equity U.S.							
American Funds Washington Mutual R6	RWMGX	\$889,135	1%	\$11,610,727	1%	\$10,525,927	1%
Vanguard Institutional Index I	VINIX	\$4,780,850	7%	\$73,503,859	7%	\$63,368,100	7%
T. Rowe Price Blue Chip Growth I	TBCIX	\$2,515,835	4%	\$39,412,654	4%	\$26,368,401	3%
Subtotal		\$8,185,820	12%	\$124,527,240	12%	\$100,262,428	11%
Mid Cap Equity U.S.							
Vanguard Extended Market Index Instl	VEIX	\$1,513,769	2%	\$23,429,529	2%	\$16,103,243	2%
Champlain Mid Cap Institutional	CIPIX	\$497,590	<1%	\$5,775,248	<1%	\$4,565,988	<1%
Subtotal		\$2,011,359	3%	\$29,204,777	3%	\$20,679,231	2%
Small Cap Equity U.S.							
JPMorgan US Small Company R6	JUSMX	\$696,634	<1%	\$7,336,918	<1%	\$5,840,441	<1%
Subtotal		\$696,634	<1%	\$7,336,918	<1%	\$5,840,441	<1%
International Equity							
Lazard International Equity R6	RIEX	\$360,376	<1%	\$3,507,448	<1%	\$2,821,639	<1%
Vanguard Total Intl Stock Index I	VTSNX	\$1,300,465	2%	\$14,904,025	1%	\$11,552,620	1%
Subtotal		\$1,660,841	3%	\$18,411,474	2%	\$14,374,259	2%

Fund Name	Ticker	Annual Contribution		Assets			
		01/01/2020 - 12/31/2020		12/31/2020		12/31/2019	
Specify							
TIAA-CREF Real Estate Sec Instl	TIREX	\$370,100	<1%	\$4,071,120	<1%	\$4,703,064	<1%
Subtotal		\$370,100	<1%	\$4,071,120	<1%	\$4,703,064	<1%
Target Dates							
American Funds 2010 Trgt Date Retire R6	RFTTX	\$396,047	<1%	\$28,452,822	3%	\$27,008,903	3%
American Funds 2015 Trgt Date Retire R6	RFJTX	\$1,055,456	2%	\$48,410,943	5%	\$47,732,009	5%
American Funds 2020 Trgt Date Retire R6	BRCTX	\$4,424,357	7%	\$110,364,029	10%	\$111,741,472	12%
American Funds 2025 Trgt Date Retire R6	RFDTX	\$6,783,614	10%	\$100,162,570	12%	\$119,857,421	13%
American Funds 2030 Trgt Date Retire R6	RFETX	\$8,303,685	13%	\$129,514,936	12%	\$113,984,907	13%
American Funds 2035 Trgt Date Retire R6	RFFTX	\$8,344,587	13%	\$132,830,403	12%	\$110,948,523	12%
American Funds 2040 Trgt Date Retire R6	RFGTX	\$8,149,511	9%	\$86,065,955	8%	\$68,230,751	8%
American Funds 2045 Trgt Date Retire R6	RFHTX	\$5,617,408	9%	\$59,197,335	6%	\$46,413,537	5%
American Funds 2050 Trgt Date Retire R6	RFITX	\$3,854,913	6%	\$30,255,488	3%	\$22,536,214	2%
American Funds 2055 Trgt Date Retire R6	RFKTX	\$2,410,440	4%	\$13,275,718	1%	\$8,839,863	<1%
American Funds 2060 Trgt Date Retire R6	RFUTX	\$794,852	1%	\$3,157,921	<1%	\$2,520,542	<1%
American Funds 2065 Trgt Date Retire R6	RFVTX	\$26,383	<1%	\$87,611	<1%	\$0	0%
Subtotal		\$48,161,254	73%	\$771,574,930	73%	\$679,813,823	75%
Other							
Self-Directed Brokerage		\$0	0%	\$30,502,420	3%	\$22,109,519	2%
Subtotal		\$0	0%	\$30,502,420	3%	\$22,109,519	2%
Totals		\$85,774,104	100%	\$1,061,322,506	100%	\$905,482,095	100%

Attachment 7: Sample Performance Standards

**CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATIVE SERVICES**

Activity	Quality Performance Standard (business days)	Fees Placed at Risk 457(b) and 401(a)	Fees Placed at Risk 403(b)
Transition/Implementation	days from receipt of all required data in good order	Day 1-5: \$ Day 6-10: \$ Day 11 and on: \$	Day 1-5: \$ Day 6-10: \$ Day 11 and on: \$

Activity	Quality Performance Standard (business days)	Percentage of Fees Placed at Risk 457(b) and 401(a)	Percentage of Fees Placed at Risk 403(b)
Contribution reconciliation and posting	_____ days from receipt of payroll data in good order	5.00%	5.00%
Hardship withdrawals	_____ days from receipt of request in good order	5.00%	5.00%
Termination/Rollovers/Direct transfers for distribution	days from receipt of request in good order	5.00%	5.00%
Participant directed fund transfers	_____ days from receipt of request in good order	5.00%	5.00%
Participant statements mailed	_____ days from period end	5.00%	5.00%
Confirmation statements mailed	_____ days from period end	5.00%	5.00%
Plan level reporting	_____ days from month end	5.00%	5.00%

Hardship withdrawal reporting	____ days from month end	5.00%	5.00%
Posting of participant data maintenance file	____ days from receipt of file in good order	5.00%	5.00%
Contribution percentage elections/changes	____ days from receipt of request in good order	5.00%	5.00%
Domestic relations order Processing	____ days from receipt of request in good order	5.00%	5.00%
System availability: voice response unit, customer call center, employer, and participant website	____ hours where system is unavailable	5.00%	5.00%
Customer call center average wait time	____ of calls answered within ____ seconds	5.00%	5.00%
Customer call center questions and complaints	days from receipt of question/complaint	10.00%	10.00%
Group education meetings	of group meetings occur within ____ days of request	10.00%	10.00%
Plan Participation Rate	Guaranteed increase of participation rate by _ % per year	\$	\$

Attachment 8: Investment Policy Statement (DC Program Plans)

**CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN
RECORDKEEPING AND ADMINISTRATIVE SERVICES**

The [Investment Policy Statement](#) for the Deferred Compensation Plans can be found online at the Office of State Treasurer's website:

<https://treasurer.delaware.gov/wp-content/uploads/sites/55/2019/10/IPS-Deferred-Compensation-9.5.2018-1.pdf>

Attachment 9: Cyber Liability

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

Cyber Responsibilities, Liability and Insurance

A. Vendor Protection of Customer Data

- 1. The awarded vendor shall, at a minimum, comply with all Delaware Department of Technology and Information (DTI) security standards identified in this Request for Proposals and any resultant contract(s).**

B. Definitions

Data Breach

- 1. In general the term “data breach” means a compromise of the security, confidentiality, or integrity of, or the loss of, computerized data for the State of Delaware that results in, or there is a reasonable basis to conclude has resulted in :**
 - 1.1 The unauthorized acquisition of personally identifiable information (PII); or**
 - 1.2 Access to PII that is for an unauthorized purpose, or in excess of authorization,**
- 2. Exclusion**
 - 2.1 The term “data breach” does not include any investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.**

Personally Identifiable Information (PII)

- 1. Information or data, alone or in combination that identifies or authenticates a particular individual.**

- 1.1 Such information or data may include, without limitation, Name, Date of birth, Full address (e.g. house number, city, state, and/or zip code), Phone Number, Passwords, PINs, Federal or state tax information, Biometric data, Unique identification numbers (e.g. driver's license number, social security number, credit or debit account numbers, medical records numbers), Criminal history, Citizenship status, Medical information, Financial Information, Usernames, Answers to security questions or other personal identifiers.**

- 2. Information or data that meets the definition ascribed to the term “Personal Information” under §6809(4) of the Gramm-Leach-Bliley Act or other applicable law of the State of Delaware.**

Customer Data

- 1. All data including all text, sound, software, or image files provided to Vendor by, or on behalf of, Delaware which is occasioned by or arises out of the operations, obligations, and responsibilities set forth in this contract.**

Security Incident

- 1. Any unauthorized access to any Customer Data maintained, stored, or transmitted by Delaware or a third party on behalf of Delaware.**

C. Responsibilities of Vendor in the Event of a Data Breach

- 1. Vendor shall notify State of Delaware, Department of Technology and Information (DTI) and Government Support Services (GSS) without unreasonable delay when the vendor confirms a data breach. Such notification is to include the nature of the breach, the number of records potentially affected, and the specific data potentially affected.**
 - 1.1 Should the State of Delaware or the awarded vendor determine that a data breach has actually occurred; the awarded vendor will immediately take all reasonable and necessary means to mitigate any injury or damage which may arise out of the data breach and shall implement corrective action as determined appropriate by VENDOR, DTI, and GSS.**
 - 1.2 Should any corrective action resultant from Section B.1.1. above include restricted, altered, or severed access to electronic data; final approval of the corrective action shall reside with DTI.**
 - 1.3 In the event of an emergency the awarded vendor may take reasonable corrective action to address the emergency. In such instances the corrective action will not be considered final until approved by DTI.**
 - 1.4 For any record confirmed to have been breached whether such breach was discovered by the awarded vendor, the State, or any other entity and notwithstanding the definition of personally identifiable information as set forth at 6 Del. C. § 12B-101 the awarded vendor shall:**
 - 1.4.1. Notify in a form acceptable to the State, any affected individual as may be required by 6 Del. C. § 12B-101 of the Delaware Code.**
 - 1.4.2. Provide a preliminary written report detailing the nature, extent, and root cause of any such data breach no later than two (2) business days following notice of such a breach.**

1.4.3. Meet and confer with representatives of DTI and GSS regarding required remedial action in relation to any such data breach without unreasonable delay.

1.4.4. Bear all costs associated with the investigation, response and recovery from the breach, such as 3-year credit monitoring services, mailing costs, website, and toll-free telephone call center services.

D. No Limitation of Liability for Certain Data Breaches

1. Covered Data Loss

1.1 The loss of Customer Data that is not (1) Attributable to the instructions, acts or omissions of Delaware or its users or (2) Within the published recovery point objective for the Services

2. Covered Disclosure

2.1 The disclosure of Customer Data as a result of a successful Security Incident.

3. Notwithstanding any other provision of this contract, there shall be no monetary limitation of vendor's liability for the vendor's breach of its obligations under this contract which proximately causes a (1) Covered Data Loss or (2) Covered Disclosure, where such Covered Data Loss or Covered Disclosure results in any unauthorized public dissemination of PII.

E. Cyber Liability Insurance

1. An awarded vendor unable to meet the DTI Cloud and Offsite Hosting Policy requirement of encrypting PII at rest shall, *prior to execution of a contract*, present a valid certificate of cyber liability insurance at the levels indicated below. Further,

the awarded vendor shall ensure the insurance remains valid for the entire term of the contract, inclusive of any term extension(s).

2. Levels of cyber liability insurance required are based on the number of PII records anticipated to be housed within the solution at any given point in the term of the contract. The level applicable to this contract is: Level 4. Should the actual number of PII records exceed the anticipated number, it is the vendor’s responsibility to ensure that sufficient coverage is obtained (see table below). In the event that vendor fails to obtain sufficient coverage, vendor shall be liable to cover damages up to the required coverage amount.

NOTE: The contract officer is to engage Agency IRM and/or DTI, for identification of the anticipated number of PII records.

Level	Number of PII records	Level of cyber liability insurance required (occurrence = data breach)
1	1-10,000	\$2,000,000 per occurrence
2	10,001 – 50,000	\$3,000,000 per occurrence
3	50,001 – 100,000	\$4,000,000 per occurrence
4	100,001 – 500,000	\$15,000,000 per occurrence
5	500,001 – 1,000,000	\$30,000,000 per occurrence
6	1,000,001 – 10,000,000	\$100,000,000 per occurrence

Compliance

3. The awarded vendor(s) is required to comply with applicable security-related Federal, State, and Local laws.

F. Media Notice

1. No media notice may be issued without the approval of the State.

G. Points of Contact – Data Breach

1. State of Delaware

Department of Technology and Information

Solomon Adote, Chief Security Officer

Solomon.adote@state.de.us ; 302.739.9631

Government Support Services

[insert name & title of contact]

[insert e-mail / phone]

APPENDICES

APPENDIX A: Scope of Services

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

IX. Scope of Services

Anticipated requirements for the services requested pursuant to this RFP are set out below. The final Scope of Services will be subject to negotiation and OST and Board approval.

A. 457(b), 403(b), and 401(a) Plans

1. Administration & Recordkeeping

It is the intent of the Plans Management Board and OST that the selected vendor provides an optimal platform including (i) a full suite of reporting services to deliver timely accounting and performance information, participant demographics and plan activity to the fiduciaries; and (ii) the ability to handle multiple administrative tasks currently performed by OST staff members.

i. Full administration and recordkeeping/plan servicing

ii. Custodial trustee services

iii Ability to provide complete outsourcing of the following internal administrative functions with limited employer involvement:

1. Enrollments

2. Employee elective deferrals, including the election to defer sick and vacation pay upon termination

3. Beneficiary designations

4. Death benefit requests

5. Withdrawals, including approval of Unforeseeable Emergency/Hardship distributions

6. Qualified Domestic Relations Orders

7. Eligibility determination and tracking of Section 457 (3-year) Catch Up

8. Tracking of IRC limits, including notification to the employer for current or potential violations.

9. Rollover contributions

10. Minimum required distributions
11. Automatic cash out of small balances for terminated participants
12. Purchase of service credits
13. Recontribution of Coronavirus-related distribution

iv. Provide OST the ability to access the following reports via the employer-level website as well as provide such reports in an employer-level summary upon request:

1. Participation rate
 2. Average employee contribution
 3. Employee investment allocation
 4. Average number of funds used per participant
 5. Average number of participants invested per fund
 6. Hardship distributions with distribution date on a rolling six-month basis
 7. Terminated participants who are age 70½, and age 72, or older
 8. Inactive participants with balances under \$1,000/\$5,000
 9. Terminated participants with remaining balances
 10. Detailed reports on the specific segments of the employee population (e.g., by location, age)
 11. Capacity to provide customized “ad hoc” reports (e.g., participant statistics)
- v. Ability to track participants for required minimum distributions and to process such withdrawals
 - vi. Ability to accept payroll and indicative data files from a third-party vendor utilizing the file specifications provided in the RFP
 - vii. Existence of at least two fully redundant call centers in the event that one call center experiences an outage or other service disruption, and the ability to automatically reroute calls from one center to another in the event of a service disruption

- viii. Ability to modify voice scripts and website content within 24 hours in the event of service disruption
- ix. Disaster recovery testing that occurs at least annually
- x. Processes and procedures that protect participants' personal information including a periodic audit and assessment of overall systems.
- xi. Daily account valuation. Plan and participant account reconciliation on a daily basis. Daily access to account information, including balances, exchanges, withdrawals and investment mix election, updated on a daily basis
- xii. Ability to accommodate multiple payroll remittance files with differing payroll processing schedules (e.g., weekly and semi-monthly)
- xiii. Ability to maintain the split between pre-tax and Roth 457(b) contributions and to maintain participant's cost basis for distribution purposes. The selected vendor must be able to track the IRC limits across both source types if a participant elects to utilize both in their retirement strategy
- xiv. Ability to maintain and store beneficiary designation forms for all plans electronically, display on the website and participant statement

b. Communication/Education Services

The Plans Management Board and OST expect selected vendor to customize targeted communication and education strategies based on identified participant demographics and offer peer group comparison to the fiduciaries. Vendor must design and document strategies to promote plan participation rates and encourage increased contributions among active participants. Vendor will use multiple outreach channels including online services, telephone, in-person and via smart phone applications.

- i. The Vendor must lead (subject to OST direction) with the development and implementation of a financial education program incorporating aspects of the Plans to achieve OST's goal of ensuring retirement readiness for employees.
- ii. The education program must include outreach to all eligible employees and will be designed with input from the selected Vendor. OST and/or any consultants/resources OST deems necessary.
- iii. OST anticipates an education program incorporating multiple delivery strategies/methods including but not limited to:
 - 1. A consolidated quarterly account statement incorporating the Plans, Social Security and Defined Benefit (i.e., state pension plan) projections for each participant, where applicable

2. A potential annual benefits statement incorporating aspects of the Deferred Compensation and Defined Benefit plans as well as Social Security estimate that indicates a shortfall in retirement savings and the impact of increasing deferrals on reducing that shortfall
3. Call center services
4. Provide a custom micro-site, branded to the State of Delaware that will house plan information, forms, tools and resources for the benefit of employees.
5. Web-based tools and applications including, but not limited to:
 - a. An aggregator service
 - b. Calculators
 - c. Gap analysis tool
6. Smartphone/tablet technology and applications
7. Videos and/or video conferencing technology
8. Group-level employee sessions conducted by tenured and licensed field representatives throughout the State. Field representatives must be salaried and may not sell other products or services
9. One-on-one employee sessions conducted by tenured and licensed field representatives throughout the State. Field representatives must be salaried and may not sell other products or services unless approved by OST and its staff
10. Other new and innovative techniques/methods as developed

c. Compliance

Vendor will be required to provide plan accountants and outside auditors with quarterly/annual audited reports that fairly and accurately represent plan balances, cash transactions and performance. Vendor must insure all of their representatives understand plan specifics and are properly trained to comply with plan documents.

- i. Ability to administer an individually designed plan document
- ii. Distribution of Form 1099 for all withdrawals
- iii. Comply with any changes that may occur as a result of new legislation or regulations
- iv. Ability to timely provide all necessary data to an independent auditor of the Plan as outlined in the RFP and to assign an internal resource to respond to inquiries by the auditor in a timely manner

d. Investment Management Services

- i. Open architecture mutual fund platform inclusive of a stable value/fixed fund
- ii. Self-directed brokerage window
- iii. Managed account services
- iv. Lifetime income investment and annuity products and services
- v. Financial advice and guidance
- vi. Ability to handle custom target date and other custom portfolios if desired by OST
- vii. Provide OST with quarterly financial reporting as requested

e. Expenses

Vendor is required to provide transparent disclosure, in an ERISA format, of all fees and expenses to all fiduciaries and plan participants. Recordkeeping and plan administration fees must be printed on participant statements in both a hard dollar and percentage basis. Fees to include:

- i. Fund management fees

- ii. Sub-transfer agent fees
- iii. 12b-1 fees
- iv. Finder's fees
- v. Shareholder servicing fees
- vi. Administration charges or fees
- vii. Brokerage fees or commissions
- viii. Any other revenue-sharing arrangements

B. 403(b) Plan Specific Services

a. Third Party Administration (Aggregation Services)

It is the intent of the Plans Management Board and OST that the selected vendor provides an optimal platform which includes an aggregation service for the sixteen legacy 403(b) plan vendors. This service will include (i) a full suite of reporting services to deliver timely accounting and performance information, participant demographics and plan activity to the fiduciaries; and (ii) the ability to handle multiple administrative tasks.

i. Ability to provide complete outsourcing of approvals for the following internal administrative functions with limited employer involvement:

1. Contract exchanges between current and legacy vendors
2. Death benefit requests
3. Withdrawals, including approval of Hardship distributions
4. Qualified Domestic Relations Orders

ii. Provide OST the ability to access the following reports via the employer-level website as well as provide such reports in an employer-level summary upon request:

1. Weekly transaction report listing all approved distributions and exchanges.
2. Weekly report for all approved hardship distribution requests.

3. Monthly vendor reports which include participant name, legacy account balance, and employment status.
 4. Current loans outstanding and all loan defaults (Note that loans are not allowed in this Plan; however, several historical loans exist.)
 5. Terminated participants who are age 70½, and age 72, or older
 6. Inactive participants with balances under \$1,000/\$5,000
 7. Terminated participants with remaining balances
 8. Detailed reports on the specific segments of the employee population (e.g., by location, age)
 9. Capacity to provide customized “ad hoc” reports (e.g., participant statistics)
- iii. Existence of at least two fully redundant call centers in the event that one call center experiences an outage or other service disruptions, and the ability to automatically reroute calls from one center to another in the event of a service disruption
 - iv. Ability to modify voice scripts and website content within 24 hours in the event of service disruption
 - v. Disaster recovery testing that occurs at least annually
 - vi. Processes and procedures that protect participant’s personal information including a periodic audit and assessment of overall systems
 - vii. Ability to maintain the split between pre-tax and Roth 403(b) contributions and to maintain participant’s cost basis for distribution purposes and to ensure the tracking of IRC limits between the two source types if a participant elects to utilize both in their retirement strategy.

APPENDIX B: Form of Professional Services Agreement

I CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

This Professional Services Agreement (“PSA”) is entered into by and between the Office of State Treasurer (“OST”) for the State of Delaware (the “State”), on behalf of the Plans Management Board (the “Board”), and [] (“Vendor”).

WHEREAS, the State desires to retain Vendor to provide all necessary and appropriate recordkeeping, trustee, custodian and administrative services for the State’s deferred compensation program authorized under Chapter 60A of Title 29 of the Delaware Code and the plans within that program: (1) the State’s deferred compensation plan under Internal Revenue Code (“IRC”) § 457(b) (the “457(b) Plan”); (2) the State’s tax-sheltered annuity plan for certain education employees under IRC § 403(b) (the “403(b) Plan”); and (3) the State’s employer match plan under IRC § 401(a) (the “Match Plan,” and together with the 457 Plan and the 403(b) Plan, the “Plans”);

WHEREAS, Vendor desires to provide the services on the terms set forth in this PSA, as well as such other documents as the parties may negotiate and agree upon to govern the parties’ contractual relationship (collectively, the “Agreement”), which other documents shall be controlled and governed by the terms set forth in this PSA;

WHEREAS, the State and Vendor represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, the State and Vendor agree as follows:

1. Services and Term.

- 1.1. Vendor shall provide the State with all necessary and appropriate transition, recordkeeping, trustee, custodian and administrative services for the Plans, including those services as set forth herein and/or as specified on **Exhibit 1** (Statement of Work) to this PSA (collectively, “Services”). Vendor shall serve as a co-fiduciary in connection with the provision of Services.

- 1.2. The initial term of the Agreement shall begin on the date the Agreement is fully executed, or as may be otherwise agreed upon by the parties, and, shall extend for five years from that date. The State has three one-year extension options. OST, in its discretion, may exercise each option at any time prior to the expiration of the initial or extended term, as the case may be, subject only to Board approval of any such extension.
- 1.3. Vendor shall meet and confer with OST, the Board and/or any committee of the Board at such times and places as OST, the Board or a committee may reasonably request. Vendor, if requested by OST, shall participate in meetings with other State agencies concerning the Services or plan-related issues. Vendor shall keep OST staff informed of progress and provide updates to OST and the Board on the status of the Services. This interface shall include regular telephone communication, exchange of written data and analysis and other interaction as requested by OST or the Board.

2. Payment for Services and Expenses.

- 2.1. Vendor is entitled to receive compensation for Services from participants solely as provide on **Exhibit 2**. The State shall have no obligation to compensate Vendor for the performance of Services.
- 2.2. Vendor is solely responsible for ensuring that all Services are completed for the agreed upon fees.
- 2.3. All expenses incurred in the performance of Services are Vendor's responsibility. Vendor shall not be reimbursed for any expenses incurred by Vendor in the performance of the Services, including, but not limited to, travel and lodging expenses, communications charges, and computer time and supplies.
- 2.4. The State shall not be liable for the payment of federal, state or local sales, use or excise taxes, including any interest and penalties from any related deficiency, which may become due and payable by Vendor as a consequence of the Agreement.

3. Performance Schedule.

- 3.1. If applicable, Vendor is responsible for completing the transition of Services and providing Services to participants and beneficiaries in a timely fashion. A preliminary transition and Services schedule is set out on **Exhibit 3**. The parties shall work together to craft a final transition and Services schedule. The final project schedule shall be agreed upon and

substituted as a replacement **Exhibit 3** within 30 days from the date the Agreement is fully executed by the parties.

- 3.2. Any delay of Services or change in the sequence of Services, whether on the preliminary or final project schedule, must be approved in writing by OST.
- 3.3. In the event that Vendor fails to complete the Services or any portion thereof within the time specified in **Exhibit 3**, or with such additional time as may be granted in writing by OST, or fails to perform any Service as specified on **Exhibit 3**, or any extensions thereof, Vendor shall forfeit and promptly return those amounts specified on **Exhibit 3**.

4. Responsibilities of Vendor.

- 4.1. Vendor shall be solely responsible for the professional quality, technical accuracy, timely completion, and coordination of all Services, including the quality of any third-party solutions. In performing the Services, Vendor shall adhere to generally accepted professional and technical standards and comply with all applicable federal, state and local laws, ordinances, codes and regulations.
- 4.2. Vendor shall be responsible for ensuring that all Services, including all solutions and deliverables furnished pursuant to the Agreement, comply with the standards promulgated by the State's Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/> and as modified from time to time by DTI during the term of the Agreement. If any Service furnished pursuant to the Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform to DTI standards. Vendor shall be liable and shall indemnify, defend and hold harmless the Indemnified Parties (as defined below) for all liabilities, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), incurred by an Indemnified Party resulting from or attributable to Vendor's failure to comply with DTI standards and requirements, including those set forth on **Exhibits 4-6**.
- 4.3. Vendor shall execute and comply with the requirements of the Confidentiality (Non-Disclosure) and Integrity of Data Agreement attached as **Exhibit 4**.
- 4.4. It shall be Vendor's duty to assure that Vendor does not compromise the security, confidentiality, or integrity of information maintained by the State. In providing Services, Vendor will meet or exceed the standards set forth in the Top 20 Critical Security controls located at <http://www.sans.org/critical-security-controls/>.

- 4.5. Vendor shall be responsible for all security breaches involving State data (including participant and beneficiary personal identifiable information) caused by its employees and contract employees, its subcontractors, and the employees and contract employees of its subcontractors, and Vendor shall indemnify, defend and hold harmless the Indemnified Parties from any and all liabilities, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), arising out of such breaches.
- 4.6. Multifunction peripherals must be hardened when used or connected to the State's network.
- 4.7. Electronic information storage devices (hard drives, tapes, diskettes, compact disks, USB, multifunction peripherals, *etc.*) shall be disposed of in a manner corresponding to the classification of the stored information, up to and including physical destruction.
- 4.8. Vendor shall execute and comply with the Cloud Services Terms and Conditions Agreement attached as **Exhibit 5**.
- 4.9. Vendor shall execute and comply with the Data Usage Terms and Conditions Agreement attached as **Exhibit 6**.
- 4.10. It shall be the duty of Vendor to assure that all Services are technically sound and in conformance with all applicable federal, state and local statutes, codes, ordinances, resolutions and other regulations, rules and industry standards applicable to the Services. Vendor will not provide a Service that infringes on any copyright, trademark, patent or other intellectual property rights. Vendor shall, without additional compensation, immediately correct or revise any errors or omissions in the solution and shall indemnify, defend and hold harmless the Indemnified Parties for all liabilities, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), incurred by an Indemnified Party resulting from or attributable to Vendor's failure to comply with this Section.
- 4.11. The State's knowledge, review, approval, or acceptance of, or payment for, any Service shall not be construed to operate as an admission of any fact or circumstance, or a waiver of any rights under the Agreement or otherwise, and Vendor shall be and remain liable in accordance with the terms of the Agreement and applicable law for all damages caused by Vendor's breach or negligent performance or failure to perform under the Agreement.
- 4.12. If applicable, Vendor shall appoint a senior employee, reasonably acceptable to OST, who will manage the transition of Services to Vendor and act as the single point of contact to OST regarding transition-related Services. Vendor also shall appoint a senior employee,

reasonably acceptable to OST, who will manage the performance of post-transitions Services and act as the single point of contact to OST once services have been transitioned to Vendor.

- 4.13. Upon receipt of written notice from OST that a senior or other employee of Vendor is unsuitable for good cause, Vendor shall remove such employee from the performance of Services and substitute in his/her place an employee suitable to OST.
- 4.14. Unless legally prohibited, Vendor shall promptly notify OST's Designated Contact (as defined below) in writing of any investigation, examination or other proceeding involving Vendor, or any key personnel or designated staff of Vendor or a subcontractor, commenced by any regulatory or law enforcement agency and involving allegations of fraud or illegal conduct.
- 4.15. Vendor agrees that its officers and employees will cooperate with OST in the performance of Services and will be available for consultation with OST and the Board or its committees upon reasonable request.
- 4.16. Vendor has or will retain such employees as it may need to perform the Services.
- 4.17. Vendor will not use OST's, the Board's or the State's name, either express or implied, in any of its advertising or sales materials without OST's prior written consent.
- 4.18. Vendor represents that it is properly licensed, registered and authorized to transact business in the State.
- 4.19. Vendor will provide to OST audited or unaudited financial statements, as requested by OST.

5. OST Responsibilities/Representations.

- 5.1. OST agrees that its officers and employees will cooperate with Vendor in the performance of Services and will be available for consultation with Vendor upon reasonable request.

1. Ownership of Work Product and Data.

- 5.2. All materials, information, documents, reports and other work product, whether finished, unfinished, or draft, developed, prepared or completed by Vendor for the State relating to the Services shall become the property of the State and shall be delivered upon request. The State shall have the right to reproduce and disclose all work product related to the Agreement. The State's rights under this Section shall survive termination of the Agreement.
- 5.3. The State shall retain title and interest to all data and documents related to the Services. Upon termination of the Agreement, and for a period of six (6) months thereafter, the State shall have access to all data and documents and related activity and other reports available in connection with the Services. Promptly after such six (6) month period, all State data and documents and related activity and other reports shall be retained and returned or destroyed in accordance with Section 7.8.

6. Confidential Information of the State.

- 6.1. "Confidential Material," as used herein, means all agreements and other documents and data that contain confidential commercial, financial, consumer, or other confidential information of the State, whether or not such agreements or other documents are marked "confidential" or otherwise designated as confidential by OST.
- 6.2. Confidential Material shall be used by Vendor solely for purposes of executing its duties and obligations under the Agreement. Vendor may disclose Confidential Material only to those Vendor employees who have a need to access Confidential Material in the scope of their employment for Vendor, and who have been informed, understand and acknowledge in writing that Confidential Material is highly sensitive and confidential and must be held in strictest confidence.
- 6.3. Confidential Material shall not be copied or reproduced without the express written permission of OST, except for such copies as may reasonably be required for Vendor to execute its duties and obligations under the Agreement. Except as contemplated by the Agreement, Vendor shall not store or aggregate in a data base or other electronic storage means any Confidential Material; provided, however, that Vendor is permitted to store Confidential Material in physical or electronic files in accordance with this Section 7 while executing its duties under the Agreement and for a reasonable period of time thereafter, after which the Confidential Materials, including all physical and electronic copies, shall be returned or destroyed in accordance with Section 7.8.
- 6.4. Except as expressly permitted in this Section 7, Confidential Material shall not be disclosed to any individuals or third parties without the prior written consent of OST, unless such disclosure is required by law. Vendor shall immediately notify OST in writing of Vendor's

receipt of a court order, subpoena or discovery requests seeking or ordering the production, disclosure or inspection of any Confidential Material. Vendor shall, at the request of OST, object to any such order, subpoena or discovery and shall take all other measures that may reasonably be necessary to protect against the unwarranted production, disclosure or inspection of Confidential Material. In the event disclosure of Confidential Material is compelled or otherwise required by law, Vendor shall mark all documents submitted in connection with any such disclosure so as to indicate the confidential nature of the material and the State's interest therein.

- 6.5. This Section 7 shall not restrict the disclosure or use of Confidential Material that:
- a. is in the public domain at the time of disclosure or thereafter enters the public domain through no breach of the Agreement;
 - b. is in the possession of Vendor without restrictions when received;
 - c. has been lawfully obtained or is lawfully obtainable without restrictions from a source other than the State through no breach of the Agreement;
 - d. has been developed independently by Vendor and without reliance upon Confidential Material.
- 6.6. Vendor shall take commercially reasonable steps to restrict access to and otherwise safeguard the confidentiality and integrity of Confidential Material at all times, including, without limitation, the implementation of electronic security procedures and other measures designed to ensure that all Confidential Material is properly stored and protected at all times.
- 6.7. Vendor shall immediately disclose to OST the discovery of any security breach or suspicious intrusion involving Confidential Material and shall identify the type and amount of Confidential Material that was compromised or disclosed.
- 6.8. Unless otherwise agreed, within six (6) months from the termination of the Agreement, all Confidential Material, regardless of form, shall, at OST's option, be returned to OST or destroyed in accordance with all applicable law, orders, rules and regulations and industry best practices. Any electronic data or documents destroyed or deleted under this Section 7.8 shall be permanently deleted and shall not be recoverable, according to the National Institute of Standards and Technology's approved methods. If requested, Vendor shall provide a destruction certificate to OST listing the type and contents of electronic records or physical documents destroyed or permanently deleted under this Section 7.8.

Notwithstanding the foregoing, Vendor may retain State data or documents for any period if and as required by applicable law of Vendor's retention policies; provided, however that Vendor shall thereafter store and protect such data and documents as required by the Agreement, the applicable provisions of which shall survive termination, and delete or destroy all such data and documents at the conclusion of such period.

- 6.9. The State shall have no obligation to disclose Confidential Material. The State may, in its discretion, provide or refuse to provide Confidential Material requested by Vendor.
- 6.10. Vendor understands and agrees that the State may suffer irreparable harm in the event that Vendor or its employees fail to comply with their obligations hereunder and that monetary damages may not be adequate to compensate the State for such breach. Vendor agrees that the State, in addition to other remedies available to it at law or in equity for actual damages, shall be entitled to seek injunctive relief to enforce the terms of this Section 7.

7. Warranty.

- 7.1. Vendor agrees to correct or re-perform any Services not in compliance with this Agreement.
- 7.2. Third-party software solutions or hardware or other products within the scope of the Agreement are warranted under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products sold, licensed or offered by Vendor in connection with the provision of the Services, if any, Vendor shall pass through or assign to the State all rights Vendor obtains from the manufacturers and/or vendor of such products and services (including warranty and indemnification rights), to the extent that such rights are assignable. To the extent such rights are not assignable, Vendor shall honor all such third-party software and hardware warranties and indemnification obligations.

8. Indemnification; Limitation of Liability.

- 8.1. Vendor shall indemnify, defend and hold harmless OST, the Board and the State and their respective officers, committees, members, agents and employees (the "Indemnified Parties") from any and all liability, suits, actions, claims or damages, together with all reasonable costs and expenses (including attorneys' fees), arising out of Vendor's breach of the Agreement, or the negligent, reckless, intentional or other tortious, fraudulent, illegal, or unlawful conduct of Vendor or any subcontractor or independent contractor, or their respective officers, employees or agents, arising out of or related to the Agreement ("Claims").

- 8.2. If OST notifies Vendor in writing of a Claim against an Indemnified Party, including, without limitation, any Claim based on Vendor's disclosure of or failure to safeguard any personal financial or other private or confidential information, Vendor will defend such Claim at Vendor's expense if so requested by OST, in OST's sole discretion. Vendor will pay all costs and damages that may be finally awarded against an Indemnified Party.
- 8.3. Neither OST, the Board, the State, nor any other department, agency or instrumentality thereof, nor any committee, officer, member, agent or employee of the foregoing, shall have any obligation to indemnify or hold harmless, or any liability to, Vendor or any other party for fees (including attorneys' fees), expenses, suits, actions, claims or damages, whether direct or indirect, compensatory or punitive, actual or consequential, arising out of or related in any way to the Agreement.
- 8.4. Notwithstanding anything to the contrary herein, no provision of this Agreement shall constitute a waiver or limitation of any right of OST, the Board or the State that may exist under applicable law.
- 8.5. Notwithstanding anything to the contrary herein, to the extent available under applicable law, OST, the Board and the State and their respective committees, officers, members, agents and employees expressly reserve all rights, claims, arguments, defenses and immunities, including, without limitation, claims or defenses based on sovereign immunity, qualified immunity and other statutory or common law rights, claims, defenses or immunities; provided, however, that Vendor shall have the right to seek to enforce the Agreement in the courts of this State.

9. Insurance.

- 9.1. Vendor shall maintain the following insurance during the term of the Agreement:
 - a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law;
 - b. Comprehensive General Liability—\$1,000,000 per occurrence/\$3,000,000 per aggregate;
 - c. Professional Liability—\$5,000,000 per occurrence/\$5,000,000 per aggregate;

d. Miscellaneous Errors and Omissions—\$1,000,000 per occurrence/\$3,000,000 per aggregate;

e. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:

1. \$1,000,000 combined single limit each accident, for bodily injury;
2. \$250,000 for property damage to others;
3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 *Del. C.* § 2118; and
5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.
and:

f. Excess/Umbrella policy - Excess/Umbrella \$10,000,000 total (sits above underlying worker's compensation and employer's liability, general liability, professional liability, and business automotive liability).

9.2. In addition to the insurance policies required by Section 10.1, Vendor must maintain cyber security liability insurance coverage with limits of [in an amount TBD] for loss resulting from a data breach. The policy shall be issued by an insurance company with an A.M. Best Rating of A-VII and shall remain in place for the term of the Agreement. Notwithstanding anything in **Exhibit 5**, Vendor shall immediately notify OST when Vendor becomes aware of a security breach involving State data.

9.3. Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered to OST.

- 9.4. Before any work is performed pursuant to the Agreement, the Certificate of Insurance and/or copies of the insurance policies specified in Sections 10.1 and 10.2 shall be provided to OST. The certificate holder is as follows:

Office of the State Treasurer

820 Silver Lake Blvd., Suite 100

Dover, DE 19904

- 9.5. In no event shall OST, the Board, the State, or their respective committees, officers, members, agents or employees, be named as an additional insured on any policy required under the Agreement.

10. Independent Contractor.

- 10.1. It is understood that in the performance of the Services, Vendor is an independent contractor, not an agent or employee of OST, the Board or the State, and shall furnish such Services in its own manner and method, except as required by the Agreement.
- 10.2. Except as provided in Section 4, above, Vendor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Vendor in the performance of the Services; provided, however, that Vendor will, subject to scheduling and staffing considerations, attempt to honor OST's request for specific individuals.
- 10.3. Vendor shall be solely responsible for, and shall indemnify, defend and hold the Indemnified Parties harmless from all matters relating to the payment of Vendor's employees and any subcontractor's or independent contractor's employees, including compliance with Social Security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- 10.4. Vendor acknowledges that Vendor and any agents or employees employed by Vendor shall not, under any circumstances, be considered employees of the State, and that they shall not be entitled to any of the compensation, benefits or rights afforded employees of the State, including, but not limited to, sick leave, vacation leave, holiday pay, pension benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits.

- 10.5. Vendor shall be responsible for providing liability insurance for its personnel.
- 10.6. As an independent contractor, Vendor has no authority to bind or commit OST, the Board or the State. Nothing herein shall be deemed or construed to create a joint venture, partnership, or agency relationship between the parties for any purpose.

11. [Reserved.]

12. Termination.

- 12.1. The Agreement may be terminated by either party for default, which shall mean the failure of the other party to fulfill a material obligation under this Agreement, through no fault of the terminating party, but only after the other party is given:
 - a. Not less than 30 calendar days' written notice of intent to terminate and opportunity to cure; and
 - b. An opportunity for consultation with the terminating party prior to termination.
- 12.2. The Agreement may be terminated in whole or in part by the State for its convenience, but only after Vendor is given sixty (60) calendar days' written notice of intent to terminate.
- 12.3. Vendor is entitled to compensation earned for Services provided as of the effective date of termination.
- 12.4. In connection with any notice issued under this Section 13, the State may immediately retain another vendor to perform the Services. Vendor shall at all times cooperate in the transition and shall, at no cost to the State, perform such services as OST or the Board shall determine are necessary or appropriate to enable the transition of work to a successor vendor or vendor. Vendor's obligation to provide transition services shall survive termination and shall continue until such date as is communicated in writing to Vendor that such services are no longer needed.

- 12.5. If after termination for breach it is determined that Vendor has not so failed, the termination shall be deemed to have been effected for convenience.
- 12.6. The termination of the Agreement shall not terminate any rights or obligations that are reasonably intended to extend beyond termination, including Vendor's indemnification and confidentiality obligations.
- 12.7. The rights and remedies of OST, the Board and the State provided in this Section are in addition to any other rights and remedies provided by law or under the Agreement.
- 12.8. Gratuities.
- a. OST may, by written notice to Vendor, terminate the Agreement without liability if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Vendor or any agent or representative of Vendor to any officer or employee of OST, the Board or the State with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of the Agreement.
- b. In the event the Agreement is terminated as provided in Section 13.8.a, the State shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of the Agreement by Vendor.
- 12.9. The validity and enforcement of the Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. If such funds are not so appropriated, (a) OST may immediately terminate the Agreement without liability, and (b) the Agreement shall be terminated without liability as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available.

13. Assignment; Subcontracts.

- 13.1. Any attempt by Vendor to assign or otherwise transfer any interest in the Agreement without the prior written consent of OST shall be void.
- 13.2. Vendor's employees shall perform all Services, unless OST contents in writing to Vendor's request to use temporary staff, independent contractors or a subcontractor. Neither approval by OST of any such request, nor OST's acceptance of any solution or deliverable, or payment of any invoice, shall relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the Services. All temporary staff, independent

contractors and subcontractors shall adhere to and be bound by all applicable provisions of this Agreement, including all exhibits.

- 13.3. Vendor shall be and remain liable for all damages to OST, the Board and the State caused by the negligent performance or non-performance of work under the Agreement by any use temporary staff, independent contractors or a subcontractor.
- 13.4. The compensation due to Vendor pursuant to **Exhibit 2** shall not be affected by OST's approval of Vendor's request to use temporary staff, independent contractors or a subcontractor.

14. Complete Agreement.

- 14.1. This PSA and its exhibits, which are incorporated herein by reference, constitute the entire agreement between the State and Vendor with respect to the subject matter of the PSA and shall not be modified or changed without the express written consent of the parties. The terms of this PSA shall control and take precedence over any contrary or inconsistent terms or conditions in any document forming a part of the Agreement. The provisions of the Agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of the Agreement.
- 14.2. If the scope of any provision of the Agreement is too broad in any respect to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.
- 14.3. If any term or provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of the Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
- 14.4. Each exhibit, except as otherwise agreed, shall be a complete statement of its subject matter and shall supplement, modify and supersede the terms and conditions of the Agreement.

15. Miscellaneous Provisions.

- 15.1. Neither this PSA, including its exhibits, nor the Agreement may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of the Agreement shall be effective unless it is in writing and signed by the party against whom enforcement is sought.
- 15.2. The delay or failure by either party to exercise or enforce any of its rights under the Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 15.3. Vendor covenants that it presently has no interest, and that it will not acquire any interest, direct or indirect, that conflicts or would conflict in any manner or degree with the performance of Services required under the Agreement. Vendor further covenants that, in the performance of said Services, no person having any such interest shall be employed.
- 15.4. Vendor acknowledges that OST, the Board and the State will not subsidize or tolerate discrimination. Vendor recognizes that its refusal to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, may result in the State declaring Vendor in breach of the Agreement, terminating the Agreement without liability and/or taking such additional action as may be warranted under the circumstances.
- 15.5. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure the Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State shall have the right to annul the Agreement without liability.
- 15.6. The Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.
- 15.7. At the option of OST, the parties shall attempt in good faith to resolve any dispute arising out of or relating to the Agreement promptly by negotiation between officials or executives who have authority to settle the controversy. All offers, promises, conduct and statements, in each case relating to dispute resolution, whether oral or written, made in the course of

the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible in any proceeding involving the parties; provided, however, that evidence that is otherwise admissible or discoverable may not be rendered inadmissible merely because it was the subject of discussion in the course of negotiation.

- 15.8. Any disputes, claims or controversies arising out of or relating to the Agreement that are not resolved through resolution efforts pursuant to Section 16.7, may be submitted to mediation, if OST so elects in its sole discretion. Any such proceedings held pursuant to this provision shall be governed by the State's laws, and venue shall be in this State. The parties shall maintain the confidential nature of the proceedings and shall keep the terms of any resulting settlement or award confidential to the extent permissible under applicable law. Each party shall bear its own costs of mediation, including attorneys' fees and half of the mediator's fees and expenses.
- 15.9. Neither party to the Agreement shall be liable for damages resulting from delayed or defective performance of its obligations under the Agreement when such delays or defective performance arise out of unforeseeable causes beyond the reasonable control and without the negligence or willful misconduct of the party.
- 15.10. The Agreement (including all exhibits and content) and all information relating to Vendor's compensation for Services are public documents subject to mandatory disclosure under 29 *Del. C.* § 10001-10007. In the event that OST is required by law (any statute, governmental rule or regulation, or judicial or governmental order, judgment or decree) to disclose to the public any information or document reasonable designated as "confidential" by Vendor, OST will, to the extent reasonably practicable prior to disclosure, give Vendor prior written notice of such disclosure or potential disclosure. Vendor's designation as to confidentiality is not binding on OST, the Board or the State.
- 15.11. The provisions of the Agreement are for the sole benefit of the parties hereto. The Agreement confers no rights, benefits or claims upon any person or entity not a party hereto.

16. Assignment of Antitrust Claims.

As consideration for the award and execution of the Agreement, Vendor hereby grants, conveys, sells, assigns and transfers to the State all of Vendor's right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States or this State relating to the Services or the Agreement.

17. Governing Law.

The Agreement shall be governed by and construed in accordance with Delaware law, without regard to conflict of laws rules or principles. Vendor consents to jurisdiction and venue in this State.

18. Notices.

Any and all notices required by the provisions of the Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

If to OST:

Attn: [_____]
[_____] (“Designated Contact”)
820 Silver Lake Blvd., Suite 100
Dover, DE 19904

If to Vendor:

Attn:

IN WITNESS THEREOF, the parties hereto have caused this PSA to be duly executed as of the date and year first above written.

**OFFICE OF THE STATE TREASURER,
on behalf of the PLANS MANAGEMENT
BOARD**

Signature

Name

Title

Date

[Vendor]

Signature

Name

Title

Date

The following five exhibits are attached and shall be considered part of the PSA:

- **Exhibit 1 – Statement of Work**
- **Exhibit 2 – Payment Schedule**
- **Exhibit 3 – Project Schedule**
- **Exhibit 4 – Confidentiality (Non-Disclosure) and Integrity of Data Agreement**
- **Exhibit 5 – Cloud Services Terms and Conditions Agreement**
- **Exhibit 6 – Data Usage Terms and Conditions Agreement**

Capitalized terms used but not defined in an exhibit shall have the meanings ascribed to such terms in the PSA.

**Exhibit 1 – Statement of Work
(to be negotiated)**

Exhibit 2: Payment Schedule
(to be negotiated)

Vendor shall be entitled to compensation for Services provided under the Agreement as provided below.

Exhibit 3 – Project Schedule

PROPOSED PROJECT SCHEDULE

Task/Milestone	Date
Fully Executed Agreement	December, 2021
Implementation Period (<i>if needed</i>)	TBD 2022
Investment Recordkeeping and Administrative Services - Start Date	TBD 2022

Exhibit 4: Confidentiality (Non-Disclosure) & Integrity of Data Agreement

CONFIDENTIALITY (NON-DISCLOSURE) AND INTEGRITY OF DATA AGREEMENT

DTI is responsible for safeguarding the confidentiality and integrity of data in State computer files regardless of the source of those data or medium on which they are stored e.g., electronic data, computer output microfilm (COM), tape, or disk. Computer programs developed to process State agency data will not be modified without the knowledge and written authorization of DTI. All data generated from the original source data shall be the property of the State. The control of the disclosure of those data shall be retained by the State and DTI.

I/we, as an employee(s) of or officer of my firm, when performing work for the State, understand that I/we act as an extension of DTI and therefore I/we are responsible for safeguarding the State's data and computer files as indicated above. I/we will not use, disclose, or modify State data or State computer files without the written knowledge and written authorization of the State. Furthermore, I/we understand that I/we are to take all necessary precautions to prevent unauthorized use, disclosure, or modification of State computer files, and I/we should alert my immediate supervisor of any situation which might result in, or create the appearance of, unauthorized use, disclosure or modification of State data.

Penalty for unauthorized use, unauthorized modification of data files, or disclosure of any confidential information may mean the loss of my position and benefits, and prosecution under applicable State or federal law.

This statement applies to the undersigned Vendor and to any others working under the Vendor's direction.

I, the undersigned, hereby affirm that I have read and understand the terms of the above Confidentiality (Non-Disclosure) and Integrity of Data Agreement, and that I/we agree to abide by its terms.

Vendor Name: _____

Authorizing Official Name (print): _____

Authorizing Official Signature: _____

Date: _____

Exhibit 5: Cloud Services Terms and Conditions Agreement

PUBLIC AND NON-PUBLIC DATA OWNED BY THE STATE OF DELAWARE

Contract # _____, between State of Delaware and _____

dated _____

	Public Data	Non Public Data	CLOUD SERVICES (CS) TERMS
<p>Vendor must satisfy Clause CS1-A OR Clauses CS1-B and CS1-C, AND Clause CS4 for all engagements involving non-public data. Clause CS2 is mandatory for all engagements involving non-public data. Clause CS3 is only mandatory for SaaS or PaaS engagements involving non-public data.</p>			
CS1-A	<input type="checkbox"/>	<input type="checkbox"/>	<p>Security Standard Compliance Certifications: Vendor shall meet, and provide proof of, one or more of the following Security Certifications.</p> <ul style="list-style-type: none"> • CSA STAR – Cloud Security Alliance – Security, Trust & Assurance Registry (Level Two or higher) • FedRAMP - Federal Risk and Authorization Management Program
CS1-B	<input type="checkbox"/>	<input type="checkbox"/>	<p>Background Checks: Vendor must warrant that they will only assign employees and subcontractors who have passed a state-approved criminal background check. The background checks must demonstrate that staff, including subcontractors, utilized to fulfill the obligations of the contract, have no convictions, pending criminal charges, or civil suits related to any crime of dishonesty. This includes but is not limited to criminal fraud, or any conviction for any felony or misdemeanor offense for which incarceration for a minimum of 1 year is an authorized penalty. Vendor shall promote and maintain an awareness of the importance of securing the State's information among Vendor's employees and agents. Failure to obtain and maintain all required criminal history may be deemed a material breach of the Agreement and grounds for immediate termination and denial of further work with the State.</p>
CS1-C	<input type="checkbox"/>	<input type="checkbox"/>	<p>Responsibility: Vendor shall be responsible for ensuring its employees' and any subcontractors' compliance with the security requirements stated herein.</p>
CS2	<input type="checkbox"/>	<input type="checkbox"/>	<p>Breach Notification and Recovery: Vendor must notify the State immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State data. If data is not encrypted (<i>see CS3, below</i>), Delaware Code (6 <i>Del. C.</i> §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of personally identifiable</p>

	Public Data	Non Public Data	CLLOUD SERVICES (CS) TERMS
			information by Vendor or its subcontractors. Vendor will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State. Should Vendor or its employees or subcontractors be liable for the breach, Vendor shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State shall not agree to any limitation on liability that relieves Vendor or any person or entity from responsibility for its own negligence or conduct, or to the extent that it creates an obligation on the part of the State to hold any person or entity harmless.
CS3	<input type="checkbox"/>	<input type="checkbox"/>	Data Encryption: Vendor shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where Vendor stores personally identifiable information or other sensitive, confidential information, it shall encrypt this non-public data at rest. Vendor’s encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security guidelines. Vendor and the State will negotiate mutually acceptable key location and key management details. Vendor shall maintain mandatory cyber security liability insurance coverage for the duration of the Agreement.
CS4	<input type="checkbox"/>	<input type="checkbox"/>	Notification of Legal Requests: Vendor shall contact OST upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of the State. With regard to State data and processes, Vendor shall not respond to subpoenas, service of process, and other legal requests without first notifying OST, unless prohibited by law from providing such notice.

The terms of this document shall be incorporated into the Agreement. Any conflict between this document and the aforementioned Agreement shall be resolved by giving priority to the Agreement.

FOR OFFICIAL USE	<input checked="" type="checkbox"/> CS4 (Public Data)
	<input type="checkbox"/> CS1-A and CS4 (Non-Public Data) OR <input type="checkbox"/> CS1-B and CS1-C and CS4 (Non-public Data)
	<input type="checkbox"/> CS2 (Non-public Data) <input type="checkbox"/> CS3 (SaaS, PaaS – Non-public Data)

VENDOR Name/Address (*print*): _____

VENDOR Authorizing Official Name (*print*): _____

VENDOR Authorizing Official Signature: _____

Date: _____

Exhibit 6: Data Usage Terms and Conditions Agreement

Contract # _____, between State of Delaware and
 _____ dated _____

	Public Data	Non-Public Data		DATA USAGE (DU) TERMS
DU1	√	√	Data Ownership	The State shall own all right, title and interest in its data that is related to the Services. Vendor shall not access State user accounts, or State data, except (i) in the course of data center operations, (ii) response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at OST or the State’s written request. All information obtained or generated by Vendor in connection with the Agreement shall become and remain property of the State.
DU2	√	√	Data Usage	<p>Vendor shall comply with the following conditions. At no time will any information belonging to or intended for the State be copied, disclosed, or retained by Vendor or any third party for subsequent use. Vendor will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data. Vendor may not use any information collected in connection with the Services for any purpose other than fulfilling a Service. Protection of personally identifiable information, privacy, and sensitive data shall be an integral part of the business activities of Vendor to ensure that there is no inappropriate or unauthorized use of State information at any time. Vendor shall safeguard the confidentiality, integrity, and availability of State information.</p> <p>Only duly authorized Vendor staff will have access to State data and may be required to obtain security clearance from the State. No party related to Vendor may retain any data for subsequent use that has not been expressly authorized by the State.</p>

	Public Data	Non-Public Data		DATA USAGE (DU) TERMS
DU3	√	√	Termination and Suspension of Service	<p>Unless otherwise provided in the Agreement, in the event of termination of the Agreement, Vendor shall implement an orderly return (in CSV or XML or another mutually agreeable format), or shall guarantee secure disposal of State data.</p> <p><i>Termination of the Agreement:</i> In the event of termination, Vendor shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State data for a period of six (6) months after the effective date of the termination. Within this timeframe, Vendor will continue to secure and back up State data covered under the Agreement. After such 6-month period, Vendor shall have no obligation to maintain or provide any State data. Thereafter, unless legally prohibited, Vendor shall dispose securely of all State data in its systems or otherwise in its possession or control, as specified herein.</p> <p><i>Post-Termination Assistance:</i> The State shall be entitled to reasonable post-termination assistance with respect to the transition of Services.</p>
DU4		√	Data Disposition	<p>Unless otherwise provided in the Agreement, at no time shall any data or processes that either belong to or are intended for the use of the State be copied, disclosed, or retained by Vendor.</p> <p>Unless otherwise provided in the Agreement, when required by the State, Vendor shall destroy all requested data in all of its forms (e.g., disk, CD/DVD, backup tape, paper). Data shall be permanently deleted, and shall not be recoverable, in accordance with National Institute of Standards and Technology (NIST) approved methods. Vendor shall provide written certificates of destruction to OST.</p>
DU5		√	Data Location	<p>Vendor shall not store, process, or transfer any non-public State data outside of the United States, including for backup and disaster recovery purposes. Vendor may permit its personnel offshore access to the data, as long as the data remains onshore.</p>

	Public Data	Non-Public Data		DATA USAGE (DU) TERMS
DU6		√	Breach Notification and Recovery	Vendor must notify the State immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State data. If data is not encrypted (<i>see CS3, below</i>), Delaware Code (6 <i>Del. C.</i> §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of personally identifiable information by Vendor or its subcontractors. Vendor will provide notification to persons whose information was breached without unreasonable delay but not later than 60 days after determination of the breach, except 1) when a shorter time is required under federal law; 2) when law enforcement requests a delay; 3) reasonable diligence did not identify certain residents, in which case notice will be delivered as soon as practicable. All such communication shall be coordinated with the State. Should Vendor or its employees or subcontractors be liable for the breach, Vendor shall bear all costs associated with investigation, response, and recovery from the breach. This includes, but is not limited to, credit monitoring services with a term of at least three (3) years, mailing costs, website, and toll-free telephone call center services. The State shall not agree to any limitation on liability that relieves Vendor or any person or entity from responsibility for its own negligence or conduct, or to the extent that it creates an obligation on the part of the State to hold any person or entity harmless.
DU7		√	Data Encryption	Vendor shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where Vendor stores personally identifiable information or other sensitive or confidential information, it shall encrypt this non-public data at rest. Vendor's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security guidelines. Vendor and the State will negotiate mutually acceptable key location and key management details. Vendor shall maintain mandatory cyber security liability insurance coverage for the duration of the Agreement.

The terms of this document shall be incorporated into the Agreement. Any conflict between this document and the aforementioned Agreement shall be resolved by giving priority to the Agreement.

FOR OFFICIAL USE ONLY **DU 1 - DU 3 (Public Data Only)** OR **DU 1 - DU 7 (Non-public Data)**

VENDOR Name/Address (*print*):

VENDOR Authorizing Official Name (*print*): _____

VENDOR Authorizing Official Signature: _____

Date: _____

APPENDIX C: Sample Program Audit Requirements

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

1. Service Organization Control (SOC 1) report for Vendor covering as much of the 2020 period as possible, with a bridge (or gap) letter covering controls on the period not covered by the SOC 1 report.
2. Deferral deposits by participant by deposit date during 2020.
3. Detail of corrected and returned contributions during 2020.
4. Rollover contributions received from outside of the plan by participant during 2020.
5. Detail of exchanges in and out of Vendor by participant during 2020 with detail on which vendor within the State of Delaware 403(b) plan the exchange went to or came from.
6. Outstanding loan balances by participant at December 31, 2020 and detailed activity on repayments, defaults, interest earned, interest rates, or other activity occurring on the loan balance during 2020.
7. Distribution report by participant by type of distribution during 2020.
8. 1099-R report detailing distributions in which a 1099-R was prepared during the year with details on the gross distribution, tax withholdings, and distribution code.
9. Administrative expenses and fees report.
10. Approved service agreements with the State of Delaware 403(b) Plan detailing agreed upon rates and fees to be charged to the Plan.
11. Trust and/or custodial statement detailing each individual participant's account balances at the beginning of the year, plus deposits, minus distributions, plus investment earnings, fees, and other activity equals end of the year account balances by participant.
12. Asset detail by type of investment (cash, mutual fund, annuity, fixed income, etc.) with asset balance and number of shares or units at December 31, 2020. Please provide the full name of each security with ticker symbol (if applicable).
 - Please note that the total assets on the schedule of investments held in custody by investment type must show the same dollar amount of total assets as the schedule of participant account balances.
 - Please note that you must provide statements including all the assets held in custody for the State of Delaware 403(b) Plan. This includes ReliaStar assets, as well.

13. Self-directed brokerage supplemental statement plan detail report for Plan.
14. Information regarding whether investments are reported at contract value or fair value and the basis for determining such value.
15. Termination clauses or other restrictions on sale of any of the Plan's investment options.
16. Most recent audited financial statements for any fully-benefit responsive contracts that are available only to qualified plans.
17. Annual report or independent identification of the fair market value at December 31, 2020 and 2019 for all funds held at the end of the year.
18. Annual report or independent identification of the annual return for 2020 and 2019 for all funds held during the year.

Appendix D: File Layouts

CONTRACT NUMBER: TRE-CPM-21101 - DEFERRED COMPENSATION PLAN RECORDKEEPING AND ADMINISTRATIVE SERVICES

VENDOR Deferred Compensation File Layouts

1. Inbound Deferred Compensation deduction files (2) from VENDOR: 457bcc.txt (before tax) and 457rcc.txt (after tax). Also referred to as Contribution Change Files.

Change History:				
Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
				At minimum add the CSR number and appropriate comment to this column when documenting changes.
Pay Group ID	5	16	12	Updated to SOD457A for after tax plan
SSN	17	25	9	Changing to 9 digits
Payroll Date	168	175	8	Blank fill
Contribution Slot 1,2,3 Option Amount	194 220 246	200 226 252	7 7 7	Contribution Slots Identified for regular contributions, catch up, over 50 catch up
Hire Date	314	321	8	Blank fill
Birth Date	322	328	8	Blank fill
Location/HR Area	345	352	8	Six-digit department ID
Payroll Status Code	353	354	2	Blank fill
Annual Salary	355	364	10	Blank fill
Detail Record:				

Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
Format Code	1	4	4	CC1
Pay Group ID	5	16	12	“SOD457B” for the BT plan; “SOD457A” for the AT plan
SSN	17	25	9	Full 9 digits – no dashes
Employee ID	26	45	20	PHRST Six Digit ID example “012345”
First Name	46	75	30	
Middle Name	76	105	30	
Last Name	106	135	30	
User ID	136	155	20	"Participant" indicates the participant entered the change When an individual's name displays, this indicates the name of the administrative user who entered the change.
Payroll Slot Code	156	167	12	Blank fill
Payroll Date	168	175	8	Blank fill
Pay period Effective Date	176	183	8	Pay Period Begin Date: MMDDYYYY example "03202016"
Contribution Slot 1 Type	184	185	2	Code within Retirement Manager indicating Contribution Slot 1 Type. Typical values are "EE" for Employee Elective Deferrals, "ER" for Employer contributions.
Contribution Slot 1 Change Status	186	192	7	New/Change/Delimit else blank

Contribution Slot 1 Option	193	193	1	<p>Indicates the contribution option selected by the participant</p> <p>D=Dollar</p> <p>P=Percent</p> <p>S- Stop (used only when "Delimit" is in Contribution Slot 1 Change Status else zero</p>
Contribution Slot 1 Option Amount. Regular Employee Contributions	194	200	7	<p>Based on the prior field, this indicates the dollar amount or whole percentage of deferrable earnings elected. Format 0000000 - no decimals or dollar signs (decimal implied for dollar amount). Use for standard 457(b)/ (4Z) on BT file; Use for standard Roth /(4R) on AT file</p>
Contribution Slot 1 9/12 Election	201	202	2	Zero filled
Contribution Slot 1 Annual Deduction	203	209	7	Zero filled
Contribution Slot 2 Type	210	211	2	Code within Retirement Manager indicating Contribution Slot 2 Type. Typical values are "EE" for Employee Elective Deferrals, "ER" for Employer contributions.
Contribution Slot 2 Change Status	212	218	7	New/Change/Delimit, else Blank

Contribution Slot 2 Option	219	219	1	<p>Indicates the contribution option selected by the participant</p> <p>D=Dollar</p> <p>P=Percent</p> <p>S- Stop (used only when "Delimit" is in Contribution Slot 2 Change Status else Zero</p>
Contribution Slot 2 Option Amount. Catch Up Plan	220	226	7	<p>Based on the prior field, this indicates the dollar amount or whole percentage of salary elected.</p> <p>Format 0000000 - no decimals or dollar signs (decimal implied for dollar amount). Use for Catch Up Plan (4X) on BT file; Use for Roth Catch Up (4S) on AT file</p>
Contribution Slot 2 9/12 Election	227	228	2	<p>NOT UTILIZED</p> <p>Zero filled</p>
Contribution Slot 2 Annual Deduction	229	235	7	<p>NOT UTILIZED</p> <p>Zero filled</p>
Contribution Slot 3 Type	236	237	2	<p>Code within Retirement Manager indicating Contribution Slot 3 Type. Typical values are "EE" for Employee Elective Deferrals, "ER" for Employer contributions.</p>
Contribution Slot 3 Change Status	238	244	7	<p>New/Change/Delimit else blank</p>

Contribution Slot 3 Option	245	245	1	<p>Indicates the contribution option selected by the participant</p> <p>D=Dollar</p> <p>P=Percent</p> <p>S- Stop (used only when "Delimit" is in Contribution Slot 3 Change Status else zero</p>
Contribution Slot 3 Option Amount. Greater than 50 Catch Up	246	252	7	<p>Based on the prior field, this indicates the dollar amount or whole percentage of salary elected.</p> <p>Format 0000000 - no decimals or dollar signs (decimal implied for dollar amount). Use for Over Fifty Catch Up (4W) on BT file; Use for Over Fifty Catch Up (4T) on AT file</p>
Contribution Slot 3 9/12 Election	253	254	2	<p>NOT UTILIZED</p> <p>Zero filled</p>
Contribution Slot 3 Annual Deduction	255	261	7	<p>NOT UTILIZED</p> <p>Zero filled</p>
Contribution Slot 4 Type	262	263	2	<p>Code within Retirement Manager indicating Contribution Slot 4 Type. Typical values are "EE" for Employee Elective Deferrals, "ER" for Employer contributions. Blank fill if not utilized.</p>

Contribution Slot 4 Change Status	264	270	7	
Contribution Slot 4 Option	271	271	1	Indicates the contribution option selected by the participant Blank filled
Contribution Slot 4 Option Amount	272	278	7	Based on the prior field, this indicates the dollar amount or whole percentage of salary elected. Format 0000000 - no decimals or dollar signs (decimal implied for dollar amount).
Contribution Slot 4 9/12 Election	279	280	2	NOT UTILIZED Zero filled
Contribution Slot 4 Annual Deduction	281	287	7	NOT UTILIZED Zero filled
Contribution Slot 5 Type	288	289	2	Code within Retirement Manager indicating Contribution Slot 5 Type. Typical values are "EE" for Employee Elective Deferrals, "ER" for Employer contributions. Blank fill if not utilized.
Contribution Slot 5 Change Status	290	296	7	Blank filled
Contribution Slot 5 Option	297	297	1	Indicates the contribution option selected by the participant Blank filled

Contribution Slot 5 Option Amount	298	304	7	Based on the prior field, this indicates the dollar amount or whole percentage of salary elected. Format 0000000 - no decimals or dollar signs (decimal implied for dollar amount).
Contribution Slot 5 9/12 Election	305	306	2	NOT UTILIZED Zero filled
Contribution Slot 5 Annual Deduction	307	313	7	NOT UTILIZED Zero filled
Hire Date	314	321	8	Blank fill
Birth Date	322	329	8	Blank fill
Phone	330	344	15	##### else blank fill
Location Code / HR Area	345	352	8	First six digits of the dept ID; left justify, blank fill
Payroll Status code	353	354	2	Blank Fill
Annual Salary	355	364	10	Zero fill
Email Address	365	464	100	Blank fill
Employee Plan Eligibility Group Code / Payroll Code	465	465	1	Blank fill
Trailer Record				

**2. Outbound Deferred Compensation Common Remitter File defcomp_664093_phrst.txt.
Provides VENDOR with Deductions taken.**

Change History:

Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
NA				PHR2398
Pay Group ID	5	16	12	Changed to SOD457A for after tax plan
Contribution Slots 1,2,3	247 254 261	253 260 267	7 7 7	Contribution Slots Identified for regular contributions, catch up, over 50 catch up
Participant Status	352	352	1	T, R, A
Participant Status Change Date	353	360	8	Include date status "A" if rehired within the pay period
Location Code/HR area	361	368	8	Six-digit department ID
Detail Record:				
Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
Format Code	1	4	4	'CR'
Pay Group ID	5	16	12	'SOD457B', 'SOD457A'
SSN	17	25	9	Full 9 digits – no dashes
Employee ID	26	45	20	Six-digit Employee ID example "012345"
Participant First Name	46	75	30	
Participant Middle Name	76	105	30	
Participant Last Name	106	135	30	
Address 1	136	170	35	
Address 2	171	205	35	

City	206	225	20	
State/Country Code	226	227	2	
Zip	228	236	9	Format ##### or ##### (no dashes)
Payroll Frequency Code	237	238	2	'BW' - Bi-Weekly, 'SM' - 'Semi-Monthly, 'MO' - Monthly
Payroll Date	239	246	8	Format MMDDYYYY (Check Date)
Contribution Slot 1 - Regular Employee Contribution	247	253	7	Format 0000000- no decimals, example 0006313 = sixty-three dollars and thirteen cents
Contribution Slot 2 - Catch Up	254	260	7	Format 0000000- no decimals, example 0006313 = sixtythree dollars and thirteen cents
Contribution Slot 3 - Greater than 50 Catch up	261	267	7	Format 0000000- no decimals, example 0006313 = sixty-three dollars and thirteen cents
Contribution Slot 4	268	274	7	Format 0000000- no decimals - zero in DEMO
Contribution Slot 5	275	281	7	Format 0000000- no decimals - zero in DEMO
Loan ID	282	283	2	if no Loan ID available, zero fill
Birth Date	284	291	8	Format MMDDYYYY (no back slashes)
Hire Date	292	299	8	Format MMDDYYYY (no back slashes)
Phone	300	314	15	Format ##### (no dashes) space fill after phone number

Address 3	315	349	35	(left justified, space fill for length not utilized)
Gender ID	350	350	1	M -Male, F- Female, U-Unknown
Marital Status	351	351	1	M - married, S - single, D - divorced, W - widowed (space fill if not utilized)
Participant Status	352	352	1	A - Active, T - Terminated, R - Retiree
Participant Status Change Date	353	360	8	Required if Participant Status is other than “A”; include for Status of “A” if rehired within the pay period. The rehire date will be maintained as long as the employee stays active (space fill if not utilized).
Location Code / HR Area	361	368	8	First six digits of the dept. ID; left justify, blank fill
Payroll Status code	369	370	2	Indicates FT - Full Time, PT - Part Time, HO - Hourly
Annual Salary	371	380	10	Format: 00000000 - no decimals or dollar signs (last two positions are cents) The salary determines how much a participant is eligible to contribute per payroll. It is essential that each participant have the correct salary listed. The salary directly affects how much a participant can defer and limits monitoring. Right justified, zero filled
Hours	381	384	4	Hours worked in the current calendar year. Right justified, zero fill.
Email Address	385	484	100	Blank fill

Employee Eligibility Group Code / Payroll Code	485	485	1	Blank fill
Plan 1 Eligibility Date	486	493	8	Format MMDDYYYY (use only if eligibility group code is used) blank fill if not utilized
Plan 2 Eligibility Date	494	501	8	Format MMDDYYYY (blank fill)
Plan 1 Vesting Date	502	509	8	Format MMDDYYYY (blank fill)
Plan 2 Vesting Date	510	517	8	Format MMDDYYYY - (blank fill)
Prior Employee ID	518	537	20	Blank fill
Trailer Record:				

3. Outbound Demographic (Eligibility File) dhr048_64093_phrst.txt. Provides employee eligibility information.

Change History:				
Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
NA				At minimum add the CSR number and appropriate comment to this column when documenting changes
				PHR2398
Pay Group ID	5	16	12	Replacing with Plan ID 664093
Participant Status	352	352	1	T,R,A
Participant Status Change Date	353	360	8	Include date status "A" if rehired within the pay period

Location Code/HR Area	361	368	8	Six-digit department ID
Prior Employee ID	518	537	20	Replacing “Prior Employee ID” with constant value “00” at Vendor’s request to accommodate Plan With Ease (PWE)
Detail Record:				
Field Name	Start Position	End Position	Length/Type (Char or Num)	Comments
Format Code	1	4	4	'DEMO'
Plan ID	5	16	12	“664093” Right Justify, blank fill
SSN	17	25	9	Full 9 digits – no dashes
Employee ID	26	45	20	Left justified six-digit PHRST Employee Id example “012345” then blank fill
Participant First Name	46	75	30	
Participant Middle Name	76	105	30	
Participant Last Name	106	135	30	
Address 1	136	170	35	
Address 2	171	205	35	
City	206	225	20	
State/Country Code	226	227	2	
Zip	228	236	9	Format ##### or ##### (no dashes) “19977” or “199012807”

Payroll Code	Frequency	237	238	2	'BW' - Bi-Weekly, 'SM' - 'Semi-Monthly, 'MO' - Monthly
Payroll Date		239	246	8	Format MMDDYYYY Pay Period Begin Date example "03202016"
Contribution Slot 1		247	253	7	Format 0000000- no decimals - zero in DEMO
Contribution Slot 2		254	260	7	Format 0000000- no decimals - zero in DEMO
Contribution Slot 3		261	267	7	Format 0000000- no decimals - zero in DEMO
Contribution Slot 4		268	274	7	Format 0000000- no decimals - zero in DEMO
Contribution Slot 5		275	281	7	Format 0000000- no decimals - zero in DEMO
Loan ID		282	283	2	if no Loan ID available, zero fill
Birth Date		284	291	8	Format MMDDYYYY (no back slashes) example 10311960
Hire Date		292	299	8	Format MMDDYYYY (no back slashes) example 10091991
Phone		300	314	15	Format ##### (no dashes) zero fill last four if not used;
Address 3		315	349	35	(left justified, space fill for length not utilized)
Gender ID		350	350	1	M -Male, F- Female, U – Unknown
Marital Status		351	351	1	M - married, S - single, D - divorced, W - widowed (space fill if not utilized)

Participant Status	352	352	1	A- Active, T-Terminated, R-Retiree
Participant Status Change Date	353	360	8	Required if Participant Status is other than “A”; include for Status of “A” if rehired within the pay period. The rehire date will be maintained as long as the employee stays active (space fill if not utilized).
Location Code / HR Area	361	368	8	First six digits of the dept. ID; left justify, blank fill
Payroll Status code	369	370	2	Indicates FT - Full Time, PT - Part Time, HO - Hourly
Annual Salary	371	380	10	For Actives -Format: 00000000 - no decimals or dollar signs (last two positions are cents) example: 0005818318 All others zero fill
Hours	381	384	4	Zero fill
Email Address	385	484	100	Blank fill
Employee Plan Eligibility Group Code / Payroll Code	485	485	1	Blank fill
Plan 1 Eligibility Date	486	493	8	Format MMDDYYYY (use only if eligibility group code is used) blank fill if not utilized
Plan 2 Eligibility Date	494	501	8	Format MMDDYYYY (blank fill)
Plan 1 Vesting Date	502	509	8	Format MMDDYYYY (blank fill)
Plan 2 Vesting Date	510	517	8	Format MMDDYYYY - (blank fill)

Plan With Ease Service Years	518	537	20	Constant "00", right justify, blank fill
Trailer Record:				