

**REQUEST FOR PROPOSALS FOR
ORACLE PEOPLESOFT FINANCIALS IMPLEMENTATION VENDOR
ISSUED BY THE OFFICE OF THE STATE TREASURER**

CONTRACT NUMBER: TRE23100-TMS

I. Overview

By this request for proposals (the “RFP”), the Office of the State Treasurer (“OST”) is seeking an implementation consultant to assist with the build-out of treasury management functions within the State’s existing Oracle PeopleSoft enterprise resource planning (“ERP”) system. The modules will support OST’s business operations and are intended to improve and streamline certain treasury functions. The ultimate goal of the modules is to establish a simplified, automated and ERP integrated solution for cash and debt management processes that increases operational efficiency and minimizes manual data entry. OST seeks a partner with significant experience in implementing the Cash and Deal Management modules in Oracle PeopleSoft ERPs.

The modules will address the following treasury management functions:

- Cash management
 - Cash position
 - Electronic funds transfers
- Liquidity management
 - Cash flow forecasting
- Bank connectivity for automatic file and data retrieval integration management
- Debt management
- Investment management
- Collateral management

The selected consultant will work with OST, the Division of Accounting (“DOA”) and other partner agencies during all implementation phases, including planning, business process review, design, build, validation, transition, and provide on-going support. Additionally, the consultant will collaborate with OST, DOA, and other partner agencies to determine the appropriate resource-allocation level required to complete the implementation within OST’s targeted time frame and provide experienced personnel who will work collectively as a team to make the project a success.

OST is not seeking a vendor to provide a software solution for an ERP environment.

The RFP is issued pursuant to 29 Del. C. §§ 6981, 6982 and 6986.

VENDOR’S ELIGIBILITY: Any potential vendor (“Vendor”) must meet the criteria set forth below. Failure to meet these criteria may result in the proposal being deemed non-responsive and eliminated from further consideration:

1. Vendor must have a minimum of 5 years’ experience managing public-sector projects in any of the following areas or combination of areas: Oracle PeopleSoft ERP implementation, upgrade, or assessment; redesign of underlying business processes to best take advantage of Oracle PeopleSoft ERP; transitioning public sector clients to best practice use of Oracle PeopleSoft ERP; system integration or business process engineering to architect of Oracle PeopleSoft ERP version 9.2 and its related applications in public sector

environments. To meet this requirement, firms may cite multiple projects that demonstrate their experience with one or more of the service areas listed above.

2. Vendors must have been a prime contractor in the development, delivery, and support of at least one end-to-end implementation, upgrade, or re-architecture of Oracle PeopleSoft ERP version 9.2 and its related applications in public sector environments.
3. Vendor must have configured both the Cash and Deal Management modules within Oracle PeopleSoft ERP within the past 5 years.

A. Timetable

The tentative timetable for this RFP process is as follows:

EVENT	DATE
RFP Published	April 17, 2023
Deadline for Vendor Questions	May 8, 2023
Deadline for State Responses – Q&A Closed & Published	May 26, 2023
Deadline for Vendor Proposal Submission	June 16, 2023
Finalist Presentations (Virtual)	July 24-28, 2023
Finalist Selected / Begin Contract Negotiation and Execution	August 18, 2023
Estimated Award Notification	September 5, 2023
Implementation	January 1, 2024

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 Vendor 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 two years beginning December 1, 2023, with OST having five one-year extension options, each exercisable in OST's sole discretion.

D. Designated Contact

RFP process will be managed by the Director of Operations and Fund Management (the "Designated Contact"):

Name: Fiah M. Kwesseu
Title: Director of Operations and Fund Management
Address: 820 Silver Lake Boulevard, Suite 100
City/State: Dover, DE
ZIP: 19904
Email: Treasury_RFP@delaware.gov
Phone: (302) 672-6708

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 May 8, 2023**. 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 **May 26, 2023**. Responses will be posted publicly and will be available at <http://bids.delaware.gov>.

II. Background

A. Office of the State Treasurer

The State Treasurer is the legal custodian of all State Funds. *See 29 Del. C. § 2705(a)*. The Treasurer is responsible for receiving and safekeeping all public monies, ensuring liquidity is available to meet the State's obligations, and investing the remaining funds in appropriate instruments that obtain the best risk-adjusted returns in accordance with the Cash Management Policy Board (the "Board") guidelines and directives. OST maintains demand deposit accounts with approved financial institutions to receive various forms of payments (e.g., coins, cash, checks, and electronic fund transfers) made to State agencies and for disbursing payments. Responsibility for these functions falls under two divisions within OST — the Division of Operations and Fund Management ("OFM") and the Division of Reconciliations & Transaction Management ("RTM").

B. Division of Operations and Fund Management

The general responsibility of OFM is to oversee the daily administration of State funds across a variety of channels and to provide operational support for statewide initiatives. All current and projected cash flows are monitored to ensure that there is sufficient cash to meet the State's obligations in a timely fashion, as well as ensuring that excess cash is properly invested. OFM performs tasks related to cash and liquidity management (cash positioning and cash flow forecasting), payments (electronic funds transfer), debt management, investment management, and collateral management. Bank connectivity for

automatic file and data retrieval integration management is not integrated in our daily workflow.

- **Cash & Liquidity Management** (Cash Positioning, Cash Flow Forecasting, & Electronic Funds Transfer)

Currently, OFM has developed a custom Excel document to manage daily cash position and cash flow forecasting. Cash flows come in from a variety of sources (such as agency fees, corporate and personal income taxes, unclaimed property, delinquent collections, and other revenues). Disbursement requests are received from various State Agencies via email and entered manually into the appropriate bank portal. OFM processes approximately 560 wire transfers annually with dollar amounts totaling \$11.1 billion in 2022. OFM staff retrieve on-line banking information and manually reconcile cash flows (on Excel spreadsheets) to determine cash balances and liquidity requirements. Cash is transferred through multiple proprietary bank portals and manually recorded in Excel spreadsheets for subsequent manual entry into the State's ERP system, known as First State Financials ("FSF"). Many of OFM's processes rely heavily on manual input and review, as well as external tools such as Excel spreadsheets, Microsoft Access, txt files, pdf files, image files and Word documents and forms.

- **Debt Management**

OST provides certain debt-related services for the State. OFM is responsible for securing, and has oversight of, proceeds from debt-financing and paying the State's bond holders. This includes both general obligation and school debt service payments, including redemption, refunding, retirement of debt instruments and regulatory compliance. Debt issuance is managed by the Department of Finance, though the State Treasurer is one of the State's four issuing officers, responsible for signing off on any new debt issued by the State. Presently, data for these processes - i.e., debt service schedules (amortization and outstanding), bond premium or discount, cost of issuance, escrow and bond proceeds, federal subsidy credits and capital project - are maintained in pdf, Excel, Access databases and the State's financial system, FSF. Data is loaded manually into FSF. Also, manual entries are made to record debt service payments, deposits, and disbursements from escrow and bond proceed accounts.

- **Investment Management**

OST, under the guidance of the Board, oversees the State's investment portfolios, which is managed by outside investment professionals. OFM is responsible for making sure cash is available to meet the State's daily liquidity needs, whether it's paying employees' salaries or wiring money to vendors. Excess liquidity is invested with our outside professionals. Funds are allocated to managers pro rata in accordance with the investment architecture. Funds are invested by the investment managers in accordance with investment guidelines approved by the Board.

- **Collateral Management**

OST, under the guidance of the Board, oversees the State's banking relationship, which are listed below. OFM is responsible for ensuring that deposits of State funds are collateralized in accordance with the Board's guidelines, which generally require that funds are always fully collateralized with either approved securities held by the

Fed, a third-party custodian, or letters of credit. Currently, certain banks adjust collateral levels daily.

C. Division of Reconciliations & Transaction Management

RTM is responsible for the prompt processing, recording, and reconciling of all the State's receipts and disbursements. The staff processes accurate and timely transactions on behalf of State agencies and other organizations. RTM provides the increased checks and balances within the state's operational and banking transactions and creates strengthen internal controls across central agencies for payees and payers.

D. Department of Finance-Division of Accounting

DOA has broad responsibilities within the State's financial management structure. Accounting is responsible for financial reporting, accurately recording revenue and vendor payments, establishment of our State's general internal control structure and creation of policies that promote the efficient and effective management of State revenues and expenditures. DOA maintains FSF and is a critical partner with OST in the management of the State's finances. The successful Vendor will be required to work directly with DOA staff to implement the changes and new configurations.

E. Current Vendors Chart

Below is a list of financial institutions currently contracted by our office. OST would like to incorporate data file integration from the following vendors:

Cash Management: Banking Partners Cash Positioning and Cash Flow Forecasting	Deal Management	Investment Management
¹ JP Morgan Chase ² Citizens ³ M&T Bank ⁴ TD Bank ⁵ PNC Bank	⁶ Depository Trust & Clearing Corporation ("DTCC") ⁷ Fidelity ⁸ Wilmington Trust	⁹ Northern Trust

F. OFM Business Process Inventory

The primary goal of this project is to have a more complete integration of select OFM business processes into Oracle/PeopleSoft ERP. In completing this project, OFM seeks to increase operational efficiencies, to create a better end user experience, increase automation of current manual processes, reduce redundancies, generate time savings, and promote increased transparency for audit and compliance. Below is a summary of current

¹ Current primary banking partner for OST.

² Local banking vendor.

³ Primary local banking vendor.

⁴ Local banking vendor.

⁵ Legacy banking partner for OST that may no longer be active by implementation date.

⁶ Bond sale post-trade financial services company providing CUIS and settlement services.

⁷ Bond proceeds are held at Fidelity.

⁸ Bond escrows are held at Wilmington Trust.

⁹ Custodian for State investment accounts managed by outside firms.

business processes. A comprehensive inventory is available in Scope of Services, **Appendix A**.

- **Cash Management** (Cash Position & Electronic Funds Transfer) – daily monitoring of cash inflows and outflows.
- **Liquidity Management** (Cash Flow Forecasting) – forecasting future cash inflows and outflows to meet State obligations.
- **Debt Management** – daily administration of the State’s proceeds from debt issuance and debt programs. The primary responsibilities are the oversight and accounting of the State’s debt management processes, including development of the capital budget, issuance of debt interest and principal payments, capital project tracking, preparation of financial documents for bond sales, processing capital funding applications, annual statewide financial reporting on debt issued, bond refunding activities, and debt service reporting to State agencies, school districts, financial managers, and other stakeholders.
- **Investment Management** – reconciling month-end custodian audited account statements and performance reports.
- **Collateral Management** – ensuring banking partners meet Board guidelines to ensure our state funds are safeguarded.
- **Oracle PeopleSoft First State Financial (FSF) Accounting Entries** – FSF accounting system Interagency Vouchers (IV), accounts receivables to recognize both investment and bank interest income, daily entries related to cash inflows and outflows, and debt-related entries related to cash inflows and outflows.
- **Payment of Invoices** – payment and reconciliation of investment manager fees, banking partner invoices, and custodian and investment advisor invoices.
- **Information Reporting** – administrative security duties for Online Banking Portals, managing state-wide users’ access to banking portals.
- **Record Retention** – backup record retention for support and auditing purposes.
- **Special Payments** – processing of payments made according to the annual Grant-In-Aid and Budget Bills.
- **Contract Management** – monitoring (through Bonfire) contracts terms and extensions for contracts for liquidity managers, financial managers, and banking institutions.

III. Scope of Services

The Scope of Services for this RFP is detailed in **Appendix A**.

IV. Minimum Requirements to Submit a Proposal

Vendor submissions will not be considered unless the Vendor (a) clearly demonstrates in the proposal how the Vendor meets the vendor eligibility requirements set forth on page 1 of this RFP, (b) timely submits a proposal in accordance with the deadlines set forth in this RFP, and (c) substantially complies with the submission requirements and other material terms and conditions of this RFP. Proposals that do not meet the foregoing requirements may be considered non-responsive and rejected.

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.

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/projects>
<http://treasurer.delaware.gov/requests-proposals/>
<https://nast.org/state-careers-and-rfps/>

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. **Vendors and Legal Counsel**

OST may retain professional services or legal counsel to assist in the review and evaluation of this RFP and Vendor responses. Vendors shall not contact OST's professionals 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 professionals or legal counsel in the ordinary course of business.

6. **Contact with Other State Employees**

Direct contact with State of Delaware ("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 itself, its officers, or staff:

- a) Has 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) Has 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) Has been convicted or has had a civil judgment entered for a violation of any state or federal antitrust statute;
- d) Has failed:
 - i. Without good cause to perform under a treasury management system contract; or
 - ii. To perform satisfactorily in accordance with terms of any treasury management system contract;
- e) Has violated ethical standards set out in law or regulation; and
- f) Any other cause determined by OST to be serious and compelling, and which undermines confidence in a Vendor's ability to perform under any resulting treasury management system 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 or the State.

B. Submission of Proposals

1. Proposal Content

Each proposal must be submitted electronically via the State's Bonfire portal and respond to the items outlined in this RFP. OST reserves the right to reject any non-responsive or non-conforming proposals.

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 those enough 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 herein. *See* Section V.B.17, below. In addition, if a Vendor can provide the services exactly as requested or required but believes that there would be benefits (such as cost savings or improved service) adjusting 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 June 16, 2023** (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 due date and time.

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 due date and time.

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 (Windows & Mac). 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. 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 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 Professional Service Agreement (the "PSA") 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 May 8, 2023**. 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 May 26, 2023**, 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.* § 6 986, the State may award multiple contracts to two or more Vendors if it is determined 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.

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 evaluation committee approval. The evaluation committee has the sole right to select the successful Vendor and approve the issuance of any Award and the terms of any PSA. The

evaluation committee 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 OST.

An Award, if any, will be communicated to the successful Vendor and published only after (a) the Evaluation Committee authorizes the issuance of an Award, and (b) OST and each such Vendor execute a formal PSA on terms acceptable to all parties. 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. The proposal will be presented in a spiral-bound book or 3-ring binder, with each completed attachment identified in its own tab.

Tab A: Transmittal Letter. The letter must contain:

- Certification that the Vendor satisfies the minimum qualifications set forth in Section IV.
- A summary of the Vendor's treasury management system experience and interest in providing these services to the State;
- A statement indicating whether the proposal contains confidential business information that is being submitted in a separate, electronic file in accordance with the procedure above; and
- A representation that no treasury management system related to this RFP will take place outside of the United States.

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: Pricing Proposal. Cost breakdown to procure the system. Breakdown should include, but not be limited to, plan and specifications, implementation,

training, conversion, licensing, and support. Please indicate any specific price reductions or discounts made available to government agencies.

Tab D: Confidential Information Form. Vendors should identify any documents or information that it considers confidential using the form set forth on **Attachment 2**. Any information not within this form is automatically subject to FOIA.

Tab E: 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 F: PSA Redline. 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.

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

Tab H: Business Continuity and Disaster Recovery Plans. Vendors responding to this RFP must attach executive summaries of their business continuity and disaster recovery plans.

Tab I: Retention Policies. Vendors responding to this RFP must attach summaries of their document retention policies.

Tab J: Implementation Manual. Vendors responding to this RFP must attach a summary and documentation of their client implementation processes and timelines.

2. Furnishment of Proof

Prior to Award, the successful Vendor shall furnish OST with proof of (i) all necessary business licenses, including a valid State business license, (ii) certification(s) necessary to perform services identified herein, and (iii) 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 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 Vendors’ capabilities; therefore, responses should be detailed and concise within the proposal.

The State has outlined the services it will require in the Scope of Services in **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.

Evaluation Criteria	Point Value
FIRM AND PERSONNEL QUALIFICATIONS <ul style="list-style-type: none">• Executive Summary (5)• Company Summary (5)• Consulting Practice Summary (5)	15
DESIGN & IMPLEMENTATION <ul style="list-style-type: none">• Solution Detail (15)• Project Governance/Management (10)• Resources Risk Management (10)• Organizational Change Management (10)• Proposed Statement of Work (10)	55
OPERATIONS EXPERIENCE <ul style="list-style-type: none">• Staffing (10)• Alliances, Partnerships, and Sub-contractors (5)• Sample Deliverable (5)	20
PRICING	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 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 the month of **July 24-28, 2023**. ***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

Vendor(s) that are selected as finalist(s) and invited via written notification from OST (the "Invitations") to enter into negotiations concerning treasury management system will be expected to enter into formal contracts with OST in the form of the PSA attached here to as **Appendix D** (the "Contract"). 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.

C. Time Frame

A Vendor who receives an Invitation must execute a Contract within thirty (30) 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 treasury management system when due under the Contract, OST, 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 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 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.

1. Attachments

<u>Attachment 1:</u>	Vendor Questionnaire
<u>Attachment 2:</u>	Confidential Information Form
<u>Attachment 3:</u>	Exception Form
<u>Attachment 4:</u>	Business References

2. Appendices

<u>Appendix A:</u>	Scope of Services
<u>Appendix B:</u>	Form of Professional Services Agreement

ATTACHMENT 1: Vendor Questionnaire
CONTRACT NUMBER: TRE23100-TMS

1. FIRM AND PERSONNEL QUALIFICATIONS

1. Executive Summary

A one-page executive summary of the RFP response should demonstrate an understanding of the OST's scope and highlight key points in the Vendor's proposal. It should also highlight the key differentiators and the commitment of the Vendor to the OST.

2. Company Summary

Please list the company business scope, strategic direction, core competencies and processes, organizational structure, annual financial report/rating, partner relationships, and cloud implementation expertise in managing public-sector projects. Also, identify key service differentiators offered by your company and provide examples of similar engagements successfully managed by your company, articulating key challenges overcome and an impact summary. List the office location(s) (primary and secondary) from which the work is to be delivered from.

3. Consulting Practice Summary

Include specifics related to your public-sector project's implementation team:

- Five (5) year consulting employee turnover history.
- Onshore / offshore consulting and developer model, and offshore locations that will be used.
- The average number of years of Cloud and Oracle PeopleSoft ERP implementation experience, by functional area, for each career level that will be represented on this project (e.g., business analyst, project manager, software developer).
- An average number of years of Cloud Financials/ERP implementations and Oracle PeopleSoft ERP implementations experience at your organization overall. Number and names public-sector clients in the past 5 years where your company facilitated organizational change management.
- Describe how your consulting operations have been changed or impacted by COVID-19 pandemic. Elaborate on mergers or acquisition your organization has experienced.

2. DESIGN & IMPLEMENTATION

4. Solution Detail

Clearly describe the services that you intend to provide in response to this RFP and how you intend to provide them. The Vendor should demonstrate an understanding of scope, and fully describe the approach, the proposed percentages of onshore and offshore resources, how general risks will be managed.

Any proprietary software or methodologies must be disclosed in the proposed solution. The Vendor should document all assumptions in solution design and project delivery, in both the RFP response as well as all ongoing financial and operational considerations.

5. Project Governance Management

Describe the proposed management and governance model that will be used to ensure that the responsibilities of all parties are performed in accordance with the project scope and deliverables. The Vendor should propose a project organizational structure, and define both its own roles and responsibilities, as well as the roles and responsibilities that the OST is expected to perform throughout the duration of the project.

The Vendor should also describe its Project Management approach, structure, and function. Further, the Vendor should document its quality assurance approach and deliverable acceptance process

6. Resource Risk Management

The Vendor should detail risks and risk mitigation strategies related to resourcing and extended migration and transition efforts, as this program will be very complex, and loss of key resources inflicts both tangible and intangible costs. It should explain how costs, resources, and timelines associated with these types of delays beyond the defined timeframe will be addressed.

7. Organizational Change Management

The success of this initiative will be heavily determined by the success of the program's organizational change management capability. The Vendor should include the following items relating to guiding employees through an organizational transformation

- Vendor's proposed organizational change management approach
- Options for organizational design and a steady-state operating model
- How best practice is determined (sources leveraged)
- What are your lessons learned through previous transformations in public-sector projects

8. Proposed Statement of Work

A Statement of Work must be submitted that outlines the vendor's overall proposed strategy for collaborating with the OST during the implementations.

3. OPERATIONS EXPERIENCE

9. Staffing

Submit roles and responsibilities for your implementation team as well as expectations from OST staffing.

Submit resumes for all key onshore and offshore personnel, including at a minimum the account/client manager, contract manager, conversion manager, and key service category delivery leads. All management and leads should have held this position previously. Staff should have Cloud and Oracle PeopleSoft ERP on-premises experience preferably public-sector background and have implementation experience with the functionality they will be implementing, or the technical expertise required.

In addition to providing resumes for key personnel, Vendors shall provide the proposed personnel chart showing proposed key staff and a summary of each key member's high-level responsibilities. The vendor's key project personnel are to be full-time and dedicated solely to the project during their assigned participation unless the Vendor provides alternative solutions that meet OST's approval.

No key project personnel can be added, replaced, or removed without adequate notice (no less than 30 days) to the designated OST ERP Project Manager. OST may conduct in-person or virtual interviews with any proposed candidate if deemed necessary to clarify the IT Professional's qualifications or to obtain additional information. OST reserves the right to select candidates that provide the best value to meeting the performance requirements

10. Alliances, Partnerships, and Sub-contractors

Submit a list of all relevant alliances, partnerships, accreditations, vendor statuses and levels, and subcontractor relationships that you have established and plan to use in delivering the services described in your proposal.

11. Sample Deliverables

The Vendor should submit samples of the following:

- Process design deliverables

- Organizational change management and communication plan
- Progress and deployment readiness dashboard
- Conversion mapping and strategy deliverable
- Service level agreements
- Implementation tools or best practices
- Provide summary and documentation of client conversion process including timeline with deliverables.
- Training and education manual

ATTACHMENT 2: Confidential or Proprietary Information Form

CONTRACT NUMBER: TRE23100-TMS

☐

By checking this box, Vendor acknowledges that its proposal does not contain any information it declares to be confidential or proprietary for the purpose of production under FOIA.

Confidentiality or Proprietary Information

Note: Use additional pages as necessary.

ATTACHMENT 3: Exception Form
CONTRACT NUMBER: TRE23100-TMS

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: TRE23100-TMS

List a minimum of four business references. At least three (3) of the references should be from public-sector entities that 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.

APPENDIX A: Scope of Services
CONTRACT NUMBER: TRE23100-TMS

Vendors will be expected to perform a detailed process analysis of various functions within the OFM and RTM Divisions. Upon completion of process analyses, vendor will be expected to propose solutions that streamline, reduce, and ideally eliminate manual data entry and processing through process integration into existing Oracle PeopleSoft ERP. The following list is an inventory of current state business processes. Customer acknowledges that some current state processes may no longer be needed or may change significantly with the implementation.

Additionally, customer acknowledges that although we have done our best to create an exhaustive list of all relevant business processes within the scope of this implementation, additional related business processes, not currently included in this list, may arise, and require additional development and integration into existing Oracle PeopleSoft ERP.

1. Timeline of Performance

- Vendor will be expected to provide a timeline reflecting the particular services that they expect to perform.

2. General Services

- The Vendor shall integrate our current process functions into Oracle PeopleSoft ERP Cash and Deal Management modules to create one combined repository of treasury information.
- The Vendor shall decrease reconciliation time and improve reporting proficiencies needed to circulate information and measure performance.
- The Vendor shall house the treasury functions, e.g., cash position, cash flow forecasting, electronic wire transfers, investments, debt and collateral management into one combined repository of treasury information.
- The Vendor shall have implemented a solution with at least three different clients in the last five years.
- The Vendor shall have done at least one public sector (state, county, or local government) implementation.
- The Vendor shall assign a Project Manager that has managed at least two successful prior public sector implementations.
- At least one of the Vendor's team members assisting in the implementation shall have, at a minimum, the following credentials: Certified Treasury Professional (CTP) and/or Oracle PeopleSoft ERP certified Implementation Partner is preferred.

3. Cash Management

- **Cash Position shall:**
 - Provide previous day ending account balances (electronic file is available by 7:30 am next day), current day and controlled disbursement balances (electronic file is available starting between 10:00 am– 10:30 am current day).
 - Automatically reconcile the following with the prior day's account balance and activity:
 1. Transactions – deposits, withdrawals, payments, and wires
 2. Investment activities

- Provide cash position worksheet that combines bank balances and transactions with expected cash flows.
- Ensure OFM staff are provided the ability to perform automated and manually entries for pending items, such as cash transactions, ACHs, wire transfer and investment activity. OFM staff must be able to review all transactions prior to release.
- Allow user to input recurring in-flows and out-flows.
- Have the ability to assign a target balance to each account if applicable.
- Create flags when bank balance is below targeted balance or overdraws the account if applicable.
- Provide a real time cash position report that reflect if any of the accounts have an excess balance, above the target balance, that requires an investment trade or a deficit balance that requires funding.
- Provide customizable daily cash worksheet and reports. Reports shall have the ability to display information in data, graphical and dashboard formats.
- Allow user to view cash position at a summary level and provide the ability to breakdown the details.
- Ensure that OFM has the ability for Intraday retrieval of bank financial data.
- Accept or build file formats in standard formats (i.e., 822 file, CSV, TXT, excel & PDF) for export and import into OFM's account fee analysis software.
- Allow data to be imported (in any of the following formats: BAI, CSV, TXT, PDF) into the State's ERP accounting system
- Automatically posts journal entries to the ERP system in real time and allows the OFM staff to review for accuracy and verification following posting.
- Ensure that the TMS allows OFM staff the ability to manually edit transactions in the event of an error.
- Ensure that all the State's deposits and disbursements, no matter the means of collection (including, but not limited to, cash, checks, ACH, and wire transfers), transfer into a specific general ledger OST clearing account.

- **Daily Cash Position for Review and Approval shall:**

- Allow different levels of review and approval for workflow processes. The different workflow levels shall be user access limited.
- Provide an audit trail for all approvals.

- **Electronic Funds Transfer shall:**

- Deliver a custom payment workflow for the initiation, approval, transmission, acknowledgement of Electronic Funds Transfer (EFT), payments such as, Automated Clearing House (ACH), Fedwire, or book transfers and document via cash position process all EFT transactions.
- Implement the ability to establish customized multi-level approval workflow process controls.
- Ensure the ability to attach files to payments, with no size limits and

unlimited retention.

- Initiate EFT payments, such as Fedwire, ACH, and book transfers, from within the module for multiple banks as applicable.
- Set multiple payment initiation and approval levels.
- Provide transaction matching capabilities and the ability to reconcile payments.
- Electronically route and distribute reports, documents, and confirmations via email directly from the system.
- Have customizable templates for reports, wire confirmations, wire templates and other documents.
- Process ACH debits and credits, Fedwires, EFTs and book transfers.

4. Liquidity Management

- **Cash Flow Forecasting shall:**

- Allow OFM staff to add dates in an informational field, write rules, including thresholds for automation.
- Balance interest payments via a pre-approval process and manually adjust interest accruals.
- Create and display cash forecast data and reports with customized dashboard, KPI's, data analytics, graphs, and charts for various periods of time and development of a proposed structure for a short-long term cash flow forecast.
- Identify potential areas of efficiencies, based on a preliminary analysis of cash expenditures and receipts.
- Provide capabilities to build and analyze cash forecasts for multiple periods, (e.g., daily, weekly, monthly, quarterly) and years.
- Enter and receive data from many sources, including repetitive items, importing from an ERP accounting system, and bank data/transactions.
- Import and extrapolate historical cash flows data and model historical movements and create forecasts with different parametric inputs or hypothetical projections.
- Create user defined income and expense categories.
- Make available cash forecast reconciliation, provide reports that compare forecasts to actual bank transactions based on user defined criteria, and compare forecast to actuals, with the ability to analyze variances.
- Generate forecast using multiple cash forecasting methodologies, such as regression analysis, time series/seasonal, trend analysis and other statistical methods.
- Accommodate the assessment of various cash forecasting scenario analysis.

5. Debt Management shall:

- Accept bond data from DTCC via electronic transmission.
- Maintain and update debt payment schedules.
- Schedule all debt payments by due date, principal, and interest, total due, department, fund, and accounting line item.
- Calculate all year-end accounting adjustments by bond issue and loan, fund and accounting entry, including accrued interest, reversal of prior year accrued interest, amortization of premium and discount and deferred charges.

- Track by CUSIP within each bond issue for continuing disclosure purposes.
- Track actual payments made by OFM for bond and loan, principal and interest, and date.
- Expand capabilities for the following processes and reports i.e., maintaining arbitrage compliance, local share bond projects funding, capital projects authorized in the bond bill, bond payments and maintaining payment files, bond proceeds account, monthly capital project spending reports, amortizing project funded in bond sale and maintaining authorized/unissued capital projects listing.
- Pull data into EXCEL for further manipulation.

6. Investment Management shall:

- Allow for investment entries and verification by OFM staff. Vendors shall ensure accuracy in the posting of financial transactions. The system will provide the ability to adjust accruals prior to the entries posting to the general ledger system.
- Calculate (based on industry standards) yield, weighted average maturity, weighted average life, and duration.
- Import financial data from the State's custodian.
- Automatically post treasury journals in real time and allow review and verification. Should an error occur, the system must allow OFM staff to manually edit entry.
- Allow for custom reporting based on custodian data imports.

7. Bank File & Collateral Management shall:

- Accept or build files in standard formats (i.e., 822 file, CSV, TXT, excel & PDF) and import into OFM's account fee analysis software.
- Verify collateral positions with bank and counterparties.
- Accurately capture both historical and current bank data.
- Allow for the payment and reconciliation of invoices.
- Follow best practices for security and access controls based on user roles and meet all applicable legal and audit requirements.

8. Oracle Consultant/Implementation Entity Partner:

OFM is seeking proposals from Vendors who have served as an implementation partner with Oracle PeopleSoft ERP system for Cash and Deal Management modules.

Vendors services shall:

- Demonstrate experience with Oracle PeopleSoft ERP modules and specifically public sector for Cash and Deal Management modules.
- Provide adequate, certified, and experienced consulting resources to OFM, as necessary to successfully complete its project objectives within the agreed timeframe. OFM reserves the right to interview potential consultants prior to being accepted on the implementation team. OFM reserves the right to remove and replace any consultant.
- Define milestones and schedule regular progress evaluations that permit OFM management to determine that knowledge transfer and the project progress are occurring as expected.
- Sub-contract with other consulting firms or individuals, subject to OFM approval, to provide the resources required but will remain solely responsible for both the financial obligations to the sub-contractor(s) and the successful

completion of the project. OFM, will consider the vendor respondent to be the sole point of contact regarding all contractual matters.

- Build and/or modify the current Cash and Deal Management modules inbound and outbound interfaces to automate OFM daily processes.
- Support up to 15 bank accounts.
- Migrate up to 7 years of historical information.
- Develop a project plan, including functional/technical aspects, testing (unit/system/integration/regression/stress/performance and acceptance, etc.), pre and post implementation efforts, change management, training, and communication.
- Align administrative processes and software capabilities.
- Staff and deliver an integrated approach for change management.
- Plan for and deliver training documentation and train OFM staff on the implementation and provide 6 weeks of on-site post-implementation support and OFM communications plan.
- Document business processes, end-user procedures, end-user training plan conversion, data mapping and documentation of application configurations.
- Integrate with the State's authentication services (id.delaware.gov).
- Configure the requisite computer environment, including all developed components, documented backup, and recovery procedures.
- Develop and deliver test scripts that can be retained for regression testing.
- Document the system roll-out/go-live plan when completed.
- Support knowledge transfer for OFM and DOA staff to independently manage upgrades and support the Cash and Deal Management modules.

APPENDIX B: Form of Professional Services Agreement

This Professional Services Agreement (the “Agreement”) is entered into by and between the Office of the State Treasurer (“OST”) for the State of Delaware (the “State”) and [_____] (“Vendor”).

WHEREAS, in _____, OST issued a formal Request for Proposals (the “RFP”) pursuant to the State Procurement Code seeking proposals from qualified firms to provide a treasury management system to OST;

WHEREAS, OST desires to obtain from Vendor a treasury management system as set out in the Statement of Work on **Exhibit 1** to this Agreement;

WHEREAS, Vendor desires to provide such services to OST on the terms set forth in the Agreement;

WHEREAS, OST 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, OST and Vendor agree as follows:

1. Services and Term.

- 1.1 Vendor shall provide to OST those services as set forth herein and as specified on the Statement of Work attached hereto as **Exhibit 1** (collectively, the “Services”). Vendor shall provide all Services in a fiduciary capacity and in accordance with the Project Schedule attached hereto as **Exhibit 3**.
- 1.2 The initial term of this Agreement shall begin on the date this Agreement is fully executed, or as may be otherwise agreed upon by the parties and shall extend for five years from that date. OST 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.
- 1.3 Vendor shall meet and confer with OST at such times and places as OST may reasonably request. Vendor, if requested by OST, shall participate in meetings with other State agencies concerning investment-related issues. Vendor shall keep OST staff informed of progress and provide updates 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.

2. Payment for Services and Expenses.

- 2.1 OST will pay Vendor for the performance of Services in accordance with **Exhibit 2**.
- 2.2 OST’s obligation to pay Vendor for the performance of Services will not exceed the annual fixed price and/or rates and limits set forth on **Exhibit 2**. Vendor is solely responsible for ensuring that all Services are completed for the agreed upon price and/or rates and within any applicable cap. Annual fees and/or rates shall be fixed for the initial term of the Agreement and, at OST’s option, shall remain fixed for any extension period.

- 2.3 Unless otherwise agreed, all payments will be sent to Vendor's identified address on record with OST.
- 2.4 Vendor shall submit invoices to OST in arrears on a monthly basis. Services provided for a fixed annual price shall be prorated and billed monthly. OST agrees to pay undisputed amounts within 30 days of receipt. In the event that OST disputes all or any portion of an invoice, OST agrees to provide Vendor with a detailed statement of OST's position on the invoice, or disputed portion of the invoice, within 30 days of receipt.
- 2.5 All expenses incurred in the performance of the 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.
- 2.6 OST shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable by Vendor as a consequence of this Agreement.
- 2.7 OST shall have the right to setoff or subtract from any payment to be made to Vendor all damages, costs and expenses caused by Vendor's breach of the Agreement, or Vendor's negligence, gross negligence or other tortious or illegal conduct in connection with the provision of Services hereunder, to the extent such damages, costs and expenses have not otherwise been reimbursed by Vendor.
- 2.8 Invoices shall be submitted electronically to OST's Assistant Debt and Cash Manager, Pamela E. Smith at pamelae.smith@delaware.gov with a copy to treasury_banking_services@delaware.gov.

3. Project Schedule

- 3.1 If applicable, a preliminary project schedule is set out on **Exhibit 3 (if applicable)**. The parties shall work together to craft a final project schedule. The final project schedule shall be agreed upon and substituted as a replacement **Exhibit 3 (if applicable)** 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 (if applicable)**, or with such additional time as may be granted in writing by OST, or fails to perform any Service with such diligence as will insure its completion within the time specified in **Exhibit 3 (if applicable)**, or any extensions thereof, OST may suspend its obligation to make payment otherwise due under the Agreement until such time as the breach is cured or otherwise remedied to the reasonable satisfaction of OST.

4. Responsibilities of Vendor.

- 4.1 Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all Services. In performing the Services, Vendor shall

follow practices consistent with 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 and deliverables furnished pursuant to this 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 this Agreement. If any Service or deliverable furnished pursuant to this Agreement does not conform to DTI standards, Vendor shall, at its expense and option either (a) replace it with a conforming equivalent or (b) modify it to conform to DTI standards. Vendor shall be liable and indemnify the State and its officers, employees and attorneys for all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), incurred by the State or its agents or employees resulting from or attributable to Vendor's failure to comply with DTI standards and requirements.
- 4.3 [Reserved.]
- 4.4 It shall be Vendor's duty to assure that Vendor does not compromise the security, confidentiality, or integrity of information owned or 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 caused by its employees and contract employees, its subcontractors, and the employees and contract employees of its subcontractors. Vendor shall indemnify and hold harmless the State and its officers, employees and attorneys from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) arising out of such breaches. In addition to all rights and remedies available to it in law or in equity, the State may offset against and subtract from any payment to be made to Vendor any damages, costs and expenses caused by any such breach.
- 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 [Reserved.]
- 4.9 [Reserved.]
- 4.10 It shall be the duty of Vendor to assure that all Services and deliverables are technically sound and in conformance with all applicable federal, state, and local statutes, codes, ordinances, resolutions, and other regulations applicable to the Services. Vendor will not provide access to software, or produce work product, that violates or infringes on any copyright, trademark, patent, or other intellectual property rights. Vendor shall, without additional compensation, correct or revise any errors or omissions in the software or work product and shall indemnify the State and its officers, employees and attorneys for all liability, suits, actions, or claims, together with all reasonable costs and expenses

(including attorneys' fees), incurred by the State or its officers, employees or attorneys resulting from or attributable to Vendor's failure to comply with this Section.

- 4.11 OST's review, approval, acceptance, or payment for any Services shall not be construed to operate as an admission or acknowledgement of any fact or circumstance, or a waiver of any rights under this Agreement or otherwise, and Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages caused by Vendor's breach or negligent performance or failure to perform under this Agreement.
- 4.12 Vendor shall appoint a senior employee who will manage the performance of Services and act as the single point of contact to OST.
- 4.13 Upon receipt of written notice from OST that an 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 in writing of any investigation, examination or other proceeding involving Vendor, or any key personnel or designated staff of Vendor, including a contract employee or a subcontractor, or any key personnel or designated staff of a subcontractor, commenced by any regulatory or law enforcement agency and involving allegations of fraud or illegal conduct, or a data breach.
- 4.15 Vendor agrees that its senior employee and other key personnel or designated staff will cooperate with OST in the performance of Services and will be available for consultation with OST upon reasonable request.
- 4.16 [Reserved.]
- 4.17 [Reserved.]
- 4.18 Vendor has or will retain such employees as it may need to perform the Services.
- 4.19 Vendor will not use OST's or the State's name, either express or implied, in any of its advertising or sales materials without OST's prior written consent.
- 4.20 Vendor represents that it is properly licensed, registered and authorized to transact business and perform Services in the State.
- 4.21 Vendor will provide to OST audited or unaudited financial statements, as requested by OST.
- 4.22 Vendor shall be independent and shall provide advice and recommendations to OST and the Board free of any conflicts of interest and solely in the best interest of the State.

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.

- 5.2 OST shall pay for the Services as provided on **Exhibit 2**, subject to review for compliance with and the terms of this Agreement.

6. Ownership of Work Product and Data and Documents.

- 6.1 All materials, information, documents, reports and other work product, whether finished, unfinished, or draft, developed, prepared or completed by Vendor relating to the Agreement shall become the property of the State and shall be delivered upon request by OST. The State shall have the right to reproduce and disclose all work product related to this Agreement. The State's rights under this Section shall survive termination of the Agreement.
- 6.2 The State shall have and retain title and interest to all data and documents related to this Agreement, including Vendor work product and data and documents electronically stored by Vendor. Upon termination of the Agreement, and for a period of six (6) months thereafter, OST shall have the right to request and shall, at OST's option and at Vendor's expense, be provided with copies of all data and documents electronically stored by Vendor related to the Agreement. Promptly after such six (6) month period, all State data and documents shall be destroyed or retained in accordance with Section 7.8.

7. Confidential Information of the State.

- 7.1 "Confidential Material," as used herein, means all 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. The "CUSIP" numbers and other identifying information associated with individual securities held by Vendor under this Agreement shall be deemed Confidential Materials.
- 7.2 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.
- 7.3 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 destroyed or retained in accordance with Section 7.8.
- 7.4 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 OST's interest therein.

- 7.5 This Section 7 shall not restrict the disclosure or use of Confidential Material that:
1. is in the public domain at the time of disclosure or thereafter enters the public domain through no breach of the Agreement;
 2. is in the possession of Vendor without restrictions when received;
 3. has been lawfully obtained or is lawfully obtainable without restrictions from a source other than OST or the State through no breach of the Agreement;
 4. has been developed independently by Vendor and without reliance upon Confidential Material.
- 7.6 Vendor shall take 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 password protected at all times.
- 7.7 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.
- 7.8 Within six (6) months from the termination of the Agreement, all Confidential Material, regardless of form, shall be permanently deleted or destroyed in accordance with all applicable law, orders, rules and regulations and industry best practices. Any electronic data or documents 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, subject to Vendor's confidentiality obligations under this Agreement, retain copies of State data and documents to the extent required by applicable state or federal law, regulations, rules, or orders or Vendor's document retention policy.
- 7.9 The State shall have no obligation to disclose Confidential Material. OST may, in its discretion, provide or refuse to provide Confidential Material requested by Vendor.
- 7.10 Vendor understands and agrees that the State may suffer irreparable harm in the event that Vendor fails to comply with its 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.

7.11 Vendor's confidentiality obligations shall survive termination of the Agreement.

8. Warranty.

- 8.1 Vendor agrees to correct or re-perform any Services not in compliance with this Agreement in a timely manner.
- 8.2 Third-party products within the scope of this Agreement, if any, are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased 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 vendors of such products and services (including warranty and indemnification rights), to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

- 9.1 Vendor shall indemnify and hold harmless OST, the State and their respective officers, employees and attorneys ("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 their respective officers, employees, contract employees or agents, arising out of or related to this Agreement ("Claims").
- 9.2 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 Confidential Material, Vendor will defend such Claim at Vendor's expense if so requested by OST, in OST's sole discretion. Vendor will pay any costs or damages that may be finally awarded against an Indemnified Party.
- 9.3 Except for fees that may be due and owing as set forth in Section 2 above and **Exhibit 2** hereto, and notwithstanding anything to the contrary in this Agreement, neither OST, the State, nor any officers, employees or attorneys of the foregoing, shall have 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, in or for actions, claims, causes of action or rights, including alleged indemnification rights, arising out of or related in any way to this Agreement.
- 9.4 Notwithstanding anything to the contrary herein, no provision of this Agreement shall constitute or be construed as an indemnification obligation in favor of Vendor, or a waiver or limitation of any right of OST or the State that may exist under applicable law.
- 9.5 Notwithstanding anything to the contrary herein, to the extent available under applicable law, OST and the State, and their respective officers, employees and attorneys, 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 this Agreement in the courts of this State.

10. Insurance.

10.1 Vendor shall maintain the following insurance during the term of this 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—\$1,000,000.00 per occurrence/\$3,000,000 per aggregate;
- e. Automotive liability insurance covering all automotive units used in the work with limits of not less than \$100,000 for each person and \$300,000 for each accident as to bodily injury and \$25,000 as to property damage to others; and
- f. Cyber Liability – Vendor must maintain cyber security liability insurance coverage with limits of \$[in an amount TBD] aggregate 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. At a minimum, the policy must include coverage for any regulatory penalties and fines (to the extent insurable). Vendor shall be responsible for any deductible or self-insured retention contained in the insurance policy.
- g. Excess/Umbrella policy - Excess/Umbrella \$[in an amount TBD] total (sits above underlying worker's compensation and employer's liability, general liability, and automotive liability).

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

10.3 Before any work is performed pursuant to this Agreement, certificate of insurance and/or copies of the insurance policies specified in Section 10.1 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**

10.4 In no event shall OST or the State, or their respective officers, members, employees or attorneys, be named as an additional insured on any policy required under this Agreement.

11. Independent Contractor.

- 11.1 It is understood that in the performance of the Services, Vendor is an independent contractor, not an agent or employee of OST or the State and shall furnish such Services in its own manner and method, except as required by this Agreement.
- 11.2 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.
- 11.3 Vendor shall be solely responsible for, and shall indemnify, defend and hold OST and the State, and their respective officers, employees and attorneys, harmless from all matters relating to the payment of Vendor's employees, contract employees, subcontractor or subcontractor's employees, including compliance with Social Security withholding and all other wages, salaries, benefits and taxes of any nature whatsoever.
- 11.4 Vendor acknowledges that Vendor and any agents or employees employed or contracted by Vendor shall not, under any circumstances, be considered employees of OST or 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.
- 11.5 Vendor shall be responsible for providing liability insurance for its personnel and agents.
- 11.6 As an independent contractor, Vendor has no authority to bind or commit OST or the State. Nothing herein shall be deemed or construed to create a joint venture, partnership, or fiduciary or agency relationship between the parties for any purpose.

12. Suspension.

- 12.1 OST may for any reason suspend performance by Vendor under this Agreement for such period of time as OST, in its discretion, may prescribe by providing written notice to Vendor. Upon receipt of such notice, Vendor shall not perform further work under this Agreement until Vendor's receipt of written notice from OST to resume performance.
- 12.2 OST shall pay Vendor compensation earned through the effective date of suspension, less all previous payments and subject to any rights of offset or recoupment that OST or the State may have against Vendor.

13. Termination.

- 13.1 This 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 14 calendar days' written notice of intent to terminate; and
 - b. An opportunity for consultation with the terminating party prior to termination.
- 13.2 This Agreement may be terminated in whole or in part by OST for its convenience, but only after Vendor is given 30 calendar days' written notice of intent to terminate.

- 13.3 If termination is effected, OST will pay Vendor that portion of compensation earned for Services provided as of the effective date of termination, but:
- a. No amount shall be allowed for anticipated profit on unperformed Services or other work;
 - b. Any payment due to Vendor at the time of termination may be adjusted or reduced to the extent of the State's offset or recoupment rights; and
 - c. In the event Vendor ceases conducting business, OST shall have the right to make an unsolicited offer of employment to any officers or employees of Vendor.
- 13.4 In connection with any notice issued under this Section 13, OST may immediately retain another vendor to perform the Services. Vendor shall at all times cooperate in the transition and shall perform such Services and additional services as OST shall determine are necessary or appropriate to enable the transition of work to a successor vendor or vendors. 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 or additional services are no longer needed.
- 13.5 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.
- 13.6 The termination of this Agreement shall not terminate indemnification or confidentiality rights or obligations, or any other rights or obligations that are intended to or customarily extend beyond termination.
- 13.7 The rights and remedies of OST provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.8 Gratuities.
- a. OST may, by written notice to Vendor, terminate this 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 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 this Agreement.
 - b. In the event this Agreement is terminated as provided in Section 13.8, the State shall be entitled to pursue the same remedies against Vendor it could pursue in the event of a breach of this Agreement by Vendor.
 - c. The rights and remedies of OST and the State provided in Section 13.8 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- 13.9 Validity and enforcement of this 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 this Agreement without liability, and (b) the Agreement shall be terminated without liability as to any obligation of OST requiring the expenditure of money for which no specific appropriation is available.

14. Assignment; Subcontracts.

- 14.1 Any attempt by Vendor to assign or otherwise transfer any interest in this Agreement without the prior written consent of OST shall be void.
- 14.2 Vendor's employees shall perform all Services, unless OST consents 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 software, 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 the terms of this Agreement, including all exhibits.
- 14.3 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 this Agreement by any use temporary staff, independent contractors or a subcontractor.
- 14.4 The compensation otherwise 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.

15. Complete Agreement.

- 15.1 This Agreement and its exhibits, which are incorporated herein by reference, shall constitute the entire Agreement between OST and Vendor with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this Agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. Notwithstanding the foregoing, or any other provision of this Agreement, all oaths, representations and warranties made by Vendor through participation in the RFP process, including, without limitation, all written representations made by Vendor in Vendor's proposal concerning Vendor's experience and capabilities, shall survive execution and become part of the Agreement.
- 15.2 If the scope of any provision of this 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.
- 15.3 If any term or provision of this 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 this 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.

- 15.4 Each exhibit to this Agreement, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement, modify and supersede the terms and conditions of this Agreement. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter of this Agreement.

16. Miscellaneous Provisions.

- 16.1 Except for fees that may be due and owing as set forth in Section 2 above and **Exhibit 2** hereto, Vendor shall solely bear the costs incurred in the performance of this Agreement.
- 16.2 Neither this Agreement nor any exhibit may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom enforcement is sought.
- 16.3 The delay or failure by either party to exercise or enforce any of its rights under this 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.
- 16.4 Vendor represents and 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 this Agreement. Vendor will immediately notify OST of any material change to such representation that arises during the term of the Agreement, including any extension period.
- 16.5 Vendor acknowledges that OST and the State have obligations to ensure that public funds and resources are not used to subsidize private 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 OST 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.
- 16.6 Vendor warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, OST shall have the right to terminate this Agreement without liability.
- 16.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either party.
- 16.8 At the option of OST, the parties shall attempt in good faith to resolve any dispute arising out of or relating to this 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.

- 16.9 Any disputes, claims or controversies arising out of or relating to this Agreement that are not resolved through resolution pursuant to Section 16.8, may be submitted to mediation if OST so elects. 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.
- 16.10 The rights and remedies of OST and the State provided for in this Agreement are in addition to any other rights and remedies provided by law or at equity.
- 16.11 Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance of its obligations under this Agreement when such delays or defective performance arise out of causes beyond the reasonable control and without the negligence or willful misconduct of the party.
- 16.12 This Agreement, including all exhibits, and its contents, including pricing information, is a public document subject to mandatory disclosure under the State's Freedom of Information Act, 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 reasonably designated as "confidential" by Vendor, OST will, to the extent reasonably practicable, give Vendor prior written notice of such disclosure or potential disclosure.
- 16.13 The provisions of this Agreement are for the sole benefit of the parties hereto. This Agreement confers no rights, benefits or claims upon any person or entity not a party hereto, including any permitted independent contractor or subcontractor approved by OST.
- 16.14 The terms of the RFP and any addenda or answers to RFP questions (the "RFP Documents") are incorporated herein by reference and govern the Services and Vendor except to the extent the terms of the RFP Documents conflict with the terms of this Agreement. When construing or interpreting the Agreement (a) the terms of the exhibits shall control and take precedence over the main text of the Agreement; and (b) the terms of the Agreement, including all exhibits, shall control and take precedence over the RFP Documents.

17. Assignment of Antitrust Claims.

As consideration for the award and execution of this Agreement by OST, 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 and other work product purchased or acquired by OST or the State pursuant to this Agreement.

18. Governing Law.

This 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.

19. Notices.

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

If to OST:

Attn:

If to Vendor:

Attn:

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly executed as of the date indicated below.

**STATE OF DELAWARE, by and through
the OFFICE OF THE STATE
TREASURER, on behalf of the CASH
MANAGEMENT POLICY BOARD**

Signature

Name

Title

Date

[VENDOR]

Signature

Name

Title

Date _____

The following exhibits are attached and shall be considered part of this Agreement:

- **Exhibit 1- Statement of Work**
- **Exhibit 2- Fee Schedule**
- **Exhibit 3- Project Schedule**
- **Exhibit 4- Data Usage Terms and Conditions**


Exhibit 1 – Statement of Work¹⁰
(To be negotiated.)

¹⁰ Terms used but not defined in the exhibits to this Agreement shall have the meanings ascribed to such terms in the Agreement.

Exhibit 2 – Fee Schedule
(To be negotiated.)

Exhibit 3 – Project Schedule
(To be negotiated.)

Exhibit 4– Data Usage Terms and Conditions

	<p>STATE OF DELAWARE</p> <p>DEPARTMENT OF TECHNOLOGY AND INFORMATION</p> <p>801 Silver Lake Blvd., Dover, Delaware 19904</p>
<p>DELAWARE DATA USAGE TERMS AND CONDITIONS AGREEMENT</p>	

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

Contract/Agreement #/name _____, Appendix ____

between State of Delaware and _____ dated _____

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU1	√	√	Data Ownership	<p>The State of Delaware shall own all right, title and interest in its data that is related to the services provided by this contract. The PROVIDER shall not access State of Delaware user accounts, or State of Delaware 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 State of Delaware’s written request. All information obtained or generated by the PROVIDER under this contract shall become and remain property of the State of Delaware.</p>
DU2	√	√	Data Usage	<p>PROVIDER shall comply with the following conditions. At no time will any information, belonging to or intended for the State of Delaware, be copied, disclosed, or retained by PROVIDER or any party related to PROVIDER for subsequent use in any transaction. The PROVIDER will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data to the minimum necessary to accomplish the intended purpose under this agreement. PROVIDER may not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service. Protection of Personally Identifiable Information (PII, as defined in the State’s <i>Terms & Conditions Governing Cloud Services</i> policy), privacy, and sensitive data shall be an integral part of the business activities of the PROVIDER to ensure that there is no inappropriate or unauthorized use of State of Delaware information at any time. The PROVIDER shall safeguard the confidentiality, integrity, and availability of State information.</p> <p>Only duly authorized PROVIDER staff will have access to the State of Delaware data and may be required to obtain security clearance from the State. No party related to the PROVIDER may retain any data for subsequent use in any transaction that has not been expressly authorized by the State of Delaware.</p>

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU3	√	√	Termination and Suspension of Service	<p>In the event of termination of the contract, the PROVIDER shall implement an orderly return (in CSV or XML or another mutually agreeable format), or shall guarantee secure disposal of State of Delaware data.</p> <p><i>Suspension of services:</i> During any period of suspension or contract negotiation or disputes, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data.</p> <p><i>Termination of any services or agreement in entirety:</i> In the event of termination of any services or agreement in entirety, the PROVIDER shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State of Delaware data for a period of 90 days after the effective date of the termination. Within this 90-day timeframe, vendor will continue to secure and back up State of Delaware data covered under the contract. After such 90-day period, the PROVIDER shall have no obligation to maintain or provide any State of Delaware data. Thereafter, unless legally prohibited, the PROVIDER shall dispose securely of all State of Delaware data in its systems or otherwise in its possession or control, as specified herein.</p> <p>Post-Termination Assistance: The State of Delaware shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangement has been established as part of the Service Level Agreement.</p>
DU4		√	Data Disposition	<p>At the end of this engagement, PROVIDER will account for and return all State data in all of its forms, disk, CD / DVD, tape, paper, for example. At no time shall any data or processes that either belong to or are intended for the use of State of Delaware or its officers, agents, or employees, be copied, disclosed, or retained by the PROVIDER.</p> <p>When required by the State of Delaware, the PROVIDER 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. The PROVIDER shall provide written certificates of destruction to the State of Delaware.</p>
DU5		√	Data Location	<p>The PROVIDER shall not store, process, or transfer any non-public State of Delaware data outside of the United States, including for back-up and disaster recovery purposes. The PROVIDER will permit its personnel and subcontractors to access State of Delaware data remotely only as required to provide technical or call center support.</p>

	Public Data	Non Public Data		DATA USAGE (DU) TERMS
DU6		√	Breach Notification and Recovery	The PROVIDER must notify the State of Delaware immediately of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Delaware data. If data is not encrypted (<i>see</i> DU7, below), Delaware Code (6 Del. C. §12B-100 et seq.) requires public breach notification of any incident resulting in the loss or unauthorized disclosure of Delawareans' Personally Identifiable Information (PII, as defined in Delaware's <i>Terms and Conditions Governing Cloud Services</i> policy) by PROVIDER or its subcontractors. The PROVIDER 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 of Delaware. Should the PROVIDER or its contractors be liable for the breach, the PROVIDER 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 of Delaware shall not agree to any limitation on liability that relieves the PROVIDER or its subcontractors from its own negligence, or to the extent that it creates an obligation on the part of the State to hold a PROVIDER harmless.
DU7		√	Data Encryption	The PROVIDER shall encrypt all non-public data in transit, regardless of transit mechanism. For engagements where the PROVIDER stores Personally Identifiable Information (PII) or other sensitive, confidential information, it shall encrypt this non-public data at rest. The PROVIDER's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS140-2 and subsequent security requirements guidelines. The PROVIDER and State of Delaware will negotiate mutually acceptable key location and key management details. Should the PROVIDER not be able to provide encryption at rest, it must maintain cyber security liability insurance coverage for the duration of the contract. Coverage must meet the State of Delaware's standard in accordance with the <i>Terms and Conditions Governing Cloud Services</i> policy.

The terms of this Agreement shall be incorporated into the aforementioned contract. Any conflict between this Agreement and the aforementioned contract shall be resolved by giving priority to this Agreement. By signing this Agreement, the PROVIDER agrees to abide by the following applicable Terms and Conditions [check one]:

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

PROVIDER Name/Address (*print*): _____

PROVIDER Authorizing Official Name (*print*): _____

PROVIDER Authorizing Official Signature: _____ Date: _____