

# **VENDOR MANAGEMENT POLICY**

*The State of Delaware Deferred Compensation Plans Under IRC  
§§ 457(b), 403(b) and 401(a)*

*The State of Delaware Education Savings Plan under IRC § 529*

*The State of Delaware ABLE Plan under IRC § 529A*

**Approved on *Date***

**By the Delaware Plans Management Board**

## **I. The Plans Management Board and Its Committees**

The Plans Management Board (the “Board”) oversees and administers the State of Delaware (the “State”) deferred compensation program authorized under chapter 60A of title 29 of the Delaware Code (the “DC Program”). The DC Program encompasses three distinct deferred compensation plans (the “DC Plans”) authorized under the Internal Revenue Code (“IRC”): (a) the State’s deferred compensation plan under IRC § 457(b); (b) the State’s tax-sheltered annuity plan for certain education employees under IRC § 403(b); and (c) the State’s employer match plan under IRC § 401(a). The Board also oversees and administers the State’s education savings plan under IRC § 529 authorized by subchapter XII, chapter 34 of title 14 of the Delaware Code (the “Education Plan”) and the State’s Achieving a Better Life Experience Program authorized by chapter 96A of title 16 of the Delaware Code (the “ABLE Plan,” and together with the DC Plans and the Education Plans the “Plans”).

In February 2018, as memorialized in Resolution No. 2018-1 (the “Resolution”), the Board dissolved its existing Plan-based committee structure and adopted a new committee structure based on committee function. Pursuant to the Resolution, the Board created, among other things, a standing Audit and Governance Committee and vested it with initial responsibility for all audit-related matters, potential Plan amendments, Plan-related cybersecurity issues, and such other audit or governance matters pertaining to the Plans as may be referred by the Board.

## **II. Office of the State Treasurer**

The Office of State Treasurer (“OST”) provides administrative support for the Board and its Committees in accordance with 29 *Del. C.* § 2722(g). OST, in addition to performing certain administrative/operational functions for the Plans, is primarily responsible for procuring recordkeepers and other Plan vendors. OST’s Director of Contributions and Plan Management (the “Director”) leads the procurement processes. The Director is charged with forming and overseeing procurement evaluation teams (“Evaluation Teams”), which typically consist of other OST staff and other State employees who have subject matter expertise (“SMEs”). Evaluation Teams make award recommendations to the appropriate committee, which committee then makes a recommendation to the full Board. The Director works with OST’s assigned Deputy Attorney General (the “DAG”) to negotiate and document contracts with approved vendors (the “Vendor Agreements”). The Director is responsible for monitoring the performance of awarded vendors and reporting material issues to the appropriate committee or the full Board.

## **III. Statement of Purpose and Scope**

This policy governs OST’s duties and responsibilities concerning vendor management practices for the DC Plans, the Education Plan, and the ABLE Plan. OST and vendors performing Plan-related services may have additional duties and responsibilities under the Board’s cybersecurity policy.

Vendors may include, but are not limited to, program managers, recordkeepers, investment consultants, legal advisors, and marketing partners. This policy shall not apply to vendors with whom OST or the Board do not have direct contractual relationships – *e.g.*, 403(b) “legacy” vendors and outside auditors retained by the Office of the Auditor of Accounts.

The selection and monitoring of investment option performance for the Plans is governed exclusively by

investment policy statements approved by the Board.

#### **IV. OST Duties**

OST, with oversight from the Board, shall have and perform the following duties to effectively select, manage and oversee vendors supporting the Plans.

##### **A. Vendor Selection and Risk Assessment**

- Prior to initiating any procurement process for a product or service related to the Plans, OST will perform a needs assessment to identify the requirements, objectives, and desired deliverables of a vendor engagement.
- OST shall assess risk exposure for each potential engagement based on the nature of the services to be procured and other relevant criteria, including, but not limited to:
  - Operational risk given the importance of the services to the day-to-day operations of a Plan. Potential operational risks include a disruption of services that would hinder participants' or the State's ability to process transactions or access information caused by:
    - The loss or compromise of State data maintained by a vendor.
    - Disruption or compromise of vendor's systems.
    - A vendor's bankruptcy or financial crisis.
    - Loss, turnover or competence issues with respect to critical employees.
  - Reputational risk associated with the publication of negative information about a vendor. Potential reputational risks include public disclosure of:
    - A security breach involving a vendor, generally.
    - A security breach involving State participants' personally identifiable data.
    - A vendor's bankruptcy or financial crisis.
    - Unfavorable rankings, survey results, or similar information about a vendor's competence or ability to perform similar services.
    - Fraudulent or illegal conduct involving a vendor or its officers or employees.
  - Legal risk associated with a vendor's breach of its performance obligations or duties under applicable law. Potential legal risks include a lawsuit by a participant or other third party against the Board, a Board or committee member, OST or a staff member of OST and associated costs and expenses, including the satisfaction of any resulting judgment or settlement agreement.

OST shall assign a risk category level (high, medium, or low) for each risk type (operational, reputational, and legal) associated with the services. The risk category level shall determine the frequency and scope of OST's review of the performance of an approved vendor as included in Appendix A.

- OST shall ensure that Requests for Proposal (“RFP”) include detailed questionnaires based on OST’s assessment of the inherent risks associated with the set of services to be provided. The questions, among other things, will seek to elicit information on how the potential vendors mitigate the inherent risks identified by OST.
- OST shall ensure the broad promotion of the RFP to viable vendors based on market research and through publishing on the State, industry, and association web portals.
- As part of the RFP process, OST shall perform due diligence on prospective vendors, which may consist of verifying credentials, contacting references, and obtaining available information that may bear on operational, reputational, or legal concerns.
- OST shall design a scoring methodology that is consistent with the State’s procurement process and organize evaluation teams with subject matter expertise to review and score RFP submissions.
- After scoring is complete, the evaluation team recommendations will be presented to the appropriate committee and Board.

## **B. Contracting and Agreement**

- OST, in consultation with the DAG, shall develop contracts with vendors that clearly outline the scope of services, deliverables, timelines, pricing, performance metrics, termination clauses, confidentiality, data protection, compliance requirements, rights upon material breach, and duties associated with termination and transition (if applicable).
- A contract shall include provisions appropriate to address potential operational, reputational, and legal risks. See table for this purpose in Appendix A. For example, a contract with an Operational high-risk vendor should permit periodic site visits, audits, and assessments to evaluate the vendor's compliance with contractual obligations, regulatory requirements, and security standards.
- Where applicable, OST shall work with the selected vendor to establish Service Level Agreements (“SLAs”) to define the expected levels of service, response times, and escalation procedures.
- Vendor contracts will be uploaded into OST’s contract management system within 10 business days following execution.

## **C. Vendor Management and Monitoring**

- OST shall establish and maintain written policies for managing and responding to incidents involving the vendor, such as breaches, service outages, or other disruptions. OST will review such policies annually and update them as warranted.
- In addition to any vendor reporting responsibilities that are covered under the Board’s Cyber Security policy and vendor contracts, OST may submit post-procurement follow-up due diligence questionnaires to obtain vendor information related to disaster recovery/preparedness plans and other operational items.

- All vendor-related documentation, including contracts, agreements, communications, and performance evaluations, shall be maintained in a central, electronic repository and retained in accordance with applicable record retention policies.

#### **D. Reporting**

- OST will provide a vendor contract status report to the Board and appropriate committees at least annually, detailing contract expiration dates, the potential need for extensions and anticipated RFPs. OST provides such updates with sufficient lead to complete the RFP process from preparation through implementation of the selected vendor's product or service.
- OST and vendors will report Plan business metrics to the Board and appropriate committees on a quarterly basis, or more frequently if requested by the Board. OST seeks to include the referenced reporting requirements in vendor contracts when deemed appropriate.

#### **E. Terminations and Transition**

- OST shall consult with the DAG concerning vendor performance issues that pose material operational risks or may give rise to a material breach of contract. OST or the DAG, as appropriate, shall promptly document all such concerns with the vendor. OST shall use its discretion to escalate the matter with vendor management.
- OST shall report a material risk or potential breach of contract to the Board and appropriate committees as soon as possible. In the event it is necessary for OST to take action in response to a material risk or potential breach prior to a regular or special meeting of the Board, OST shall consult with the Board chairperson and the DAG prior to taking any such necessary action.
- If a vendor materially breaches a contract, which breach is not remedied after any applicable cure period, OST will consult with the assigned DAG on termination rights and options and report to the Board or appropriate committee as soon as possible.
- In the event of a contract termination (for convenience or cause), OST will facilitate the smooth transition of services consistent with the terms of the vendor contract.

#### **V. Miscellaneous Provisions**

This Policy shall be binding on OST and shall remain in effect until amended by the Board. The Board shall have full and complete discretion as to the interpretation of this document and its application to a specific situation. Nothing contained herein shall provide to any participant, beneficiary, or any other party the right to enforce the terms of this Policy.

Adopted by the Delaware Plans Management Board this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, as evidenced by the signature of the Board Chair, as attested below.

\_\_\_\_\_  
Donna Viera, Chair

ATTEST:

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Colleen Davis, State Treasurer

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