State of Alabama
Solicitation

Solicitation	Document Phase	Document Description
RFP 020 19000000008	Final	RFP FOR IT SECURITY SERVICES
Procurement Folder	**Creation Date**	**Print Date**
912609	07/26/19	07/30/19

Request for Proposals

CONTACTS

Contact	Name	E-mail	Phone
Requestor:	Shanon McWhorter	Shanon.McWhorter@rsa-al.gov	334-517-7131
Issuer:	Adrienne Griffin	Adrienne.Griffin@rsa-al.gov	334-517-7321
Buyer:	Adrienne Griffin	Adrienne.Griffin@rsa-al.gov	334-517-7321

Bids will be accepted from: 07/31/19
to: 09/04/19

All Inquiries for Information Regarding Bid Submission Requirements or Procurement Procedures Should be Directed To The Buyer Contact Listed Above.

COMMODITY INFORMATION

Group: 1 **Line:** 1 **Line Type:** Service
Commodity Code: PRF09000001 **Quantity:**
Commodity Description: DATA PROCESSING, COMPUTER, **Unit:**
Extended Description:

DATA PROCESSING, COMPUTER, PROGRAMMING, AND SOFTWARE SERVICE

SHIPPING AND BILLING

Shipping

,

Delivery Date:

Billing

,

Delivery Type:

GENERAL TERMS AND CONDITIONS FOR RFP FOR SERVICES v 7-9-15 rhc edit 7-28-15

GENERAL TERMS AND CONDITIONS FOR THIS REQUEST FOR PROPOSALS - All proposals are subject to these Terms and Conditions.

*1. **PROHIBITED CONTACTS; INQUIRIES REGARDING THIS RFP –** From the Release Date of this RFP until a contract is awarded**,** parties that intend to submit, or have submitted, a Proposal are prohibited from communicating with any members of the Soliciting Party's Team for this transaction who may be identified herein or subsequent to the Release Date, or other employees or representatives of the Soliciting Party regarding this RFP or the underlying transaction except the designated contact(s) identified in {insert location in RFP where contacts are identified, such as Section S or Item 2.]*

Questions relating only to the RFP process may be submitted by telephone or by mail or hand delivery to: the designated contact. Questions on other subjects, seeking additional information and clarification, must be made in writing and submitted via email to the designated contact, sufficiently in advance of the deadline for delivery of Proposals to provide time to develop and publish an answer. A question received less than two full business days prior to the deadline may not be acknowledged. Questions and answers will be published to those parties submitting responsive proposals.

2. **NONRESPONSIVE PROPOSALS -** Any Proposal that does not satisfy requirements of the RFP may be deemed non-responsive and may be disregarded without evaluation. Clarification or supplemental information may be required from any Proposer.

3. **CHANGES TO THE RFP; CHANGES TO THE SCHEDULE -** The Soliciting Party reserves the right to change or interpret the RFP prior to the Proposal Due Date. Changes will be communicated to those parties receiving the RFP who have not informed the Soliciting Party's designated contact that a Proposal will not be submitted. Changes to the deadline or other scheduled events may be made by the Soliciting Party as it deems to be in its best interest.

4. **EXPENSES -** Unless otherwise specified, the reimbursable expenses incurred by the service provider in the providing the solicited services, shall be charged at actual cost without mark-up, profit or administrative fee or charge. Only customary, necessary expenses in reasonable amounts will be reimbursable, to include copying (not to exceed 15 cents per page), printing, postage in excess of first class for the first one and one-half ounces, travel and preapproved consulting services. Cost of electronic legal research, cellular phone service, fax machines, long-distance telephone tolls, courier, food or beverages are not reimbursable expenses without prior authorization, which will not be granted in the absence of compelling facts that demonstrate a negative effect on the issuance of the bonds, if not authorized.

If pre-approved, in-state travel shall be reimbursed at the rate being paid to state employees on the date incurred. Necessary lodging expenses will be paid on the same per-diem basis as state employees are paid. Any other pre-approved travel expenses will be reimbursed on conditions and in amounts that will be declared by the Issuer when granting approval to travel. Issuer may require such documentation of expenses as it deems necessary.

5. **REJECTION OF PROPOSALS -** The Soliciting Party reserves the right to reject any and all proposals and cancel this Request if, in the exercise its sole discretion, it deems such action to be in its best interest.

6. **EXPENSES OF PROPOSAL –** The Soliciting Party will not compensate a Proposer for any expenses incurred in the preparation of a Proposal.

7. **DISCLOSURE STATEMENT -** A Proposal must include one original Disclosure Statement as required by Code Section 41-16-82, et seq., Code of Alabama 1975. Copies of

the Disclosure Statement, and information, may be downloaded from the State of Alabama Attorney General's web site at http://ago.alabama.gov/Page-Vendor-Disclosure-Statement-Information-and-Instructions.

8. **LEGISLATIVE CONTRACT REVIEW -** Personal and professional services contracts with the State may be subject to review by the Contract Review Permanent Legislative Oversight Committee in accordance with Section 29-2-40, et seq., Code of Alabama 1975. The vendor is required to be knowledgeable of the provisions of that statute and the rules of the committee. These rules can be found at http://www.legislature.state.al.us/aliswww/AlaLegJointIntCommContracReview.aspx. If a

contract resulting from this RFP is to be submitted for review the service provider must provide the forms and documentation required for that process.

9**. THE FINAL TERMS OF THE ENGAGEMENT -** Issuance of this Request For Proposals in no way constitutes a commitment by the Soliciting Party to award a contract. The final terms of engagement for the service provider will be set out in a contract which will be effective upon its acceptance by the Soliciting Party as evidenced by the signature thereon of its authorized representative. Provisions of this Request For Proposals and the accepted Proposal may be incorporated into the terms of the engagement should the Issuer so dictate. Notice is hereby given that there are certain terms standard to commercial contracts in private sector use which the State is prevented by law or policy from accepting, including indemnification and holding harmless a party to a contract or third parties, consent to choice of law and venue other than the State of Alabama, methods of dispute resolution other than negotiation and mediation, waivers of subrogation and other rights against third parties, agreement to pay attorney's fees and expenses of litigation, and some provisions limiting damages payable by a vendor, including those limiting damages to the cost of goods or services.

10. **BEASON-HAMMON ACT COMPLIANCE.** A contract resulting from this RFP will include provisions for compliance with certain requirements of the *Beason-Hammon Alabama taxpayer and Citizen Protection Act* (Act 2011-535, as amended by Act 2012-491 and codified as Sections 31-13-1 through 35, Code of Alabama, 1975, as amended), as follows:

> E- VERIFY ENROLLMENT DOCUMENTATION AND PARTCIPATION. As required by Section 31-13-9(b), Code of Alabama, 1975, as amended, Contractor that is a "business entity" or "employer" as defined in Code Section 31-13-3, will enroll in the E-Verify Program administered by the United States Department of Homeland Security, will provide a copy of its Memorandum of Agreement with the United States Department of Homeland Security that program and will use that program for the duration of this contract.
>
> CONTRACT PROVISION MANDATED BY SECTION 31-13-9(k):
>
> > By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Request for Proposals

for

ITS Security Services

for the

Retirement Systems of Alabama

For the periods

October 1, 2019, through September 30, 2024;

RFP 19000000008

THIS RFP CONTAINS INFORMATION UNDER THE FOLLOWING HEADINGS:

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B. Description of RSA IT Services
C. Proposal Timetable
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B. Planned Approach
C. Costs and Price Analysis

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A. General
B. Factors

Section IV - Attachments

A. Contract Agreement reflecting required wording
B. State of Alabama Disclosure Statement (must be submitted with proposal)
C. IRS Form W-9 (must be submitted with proposal)
D. Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Act 2011-535, as amended by Act 2012-491) (must be submitted with proposal)
E. Signed Business Associate Agreement will be required

Section I

General Information for the Bidder

A. Purpose

This Request For Proposals (RFP) solicits vendor proposals for IT Security Design, Review, Remediation, and Penetration Testing Services for the Retirement Systems of Alabama (RSA) for the period October 1, 2019, through September 30, 2024 in accordance with industry standard security frameworks. Frameworks include OWASP, HIPAA and HiTech, SANS Top 20 framework, PCI Compliance, Information Technology General Controls (ITGC) and their respective audit procedures.

B. Description of RSA IT Services

The RSA IT Department is operated under the direction of the ITS Director who reports directly to the RSA Deputy Director. The ITS Director is responsible for the overall planning, organizing, and execution of all IT functions within the agency. This includes directing all IT operations to meet departmental, employer, and member requirements as well as the support and maintenance of existing applications and development of new technical solutions. The department is then further broken down into functional groups to support critical IT infrastructure and processes.

Service Desk – The Service Desk team provides technical support to in-house staff and to RSA members. The Service Desk is the first line of support (tier 1) for all IT questions and problems such as password resets, desktop and printer installations and, maintenance, and software installations. Additionally, the Service Desk works to resolve employer and member problems related to RSA's online applications.

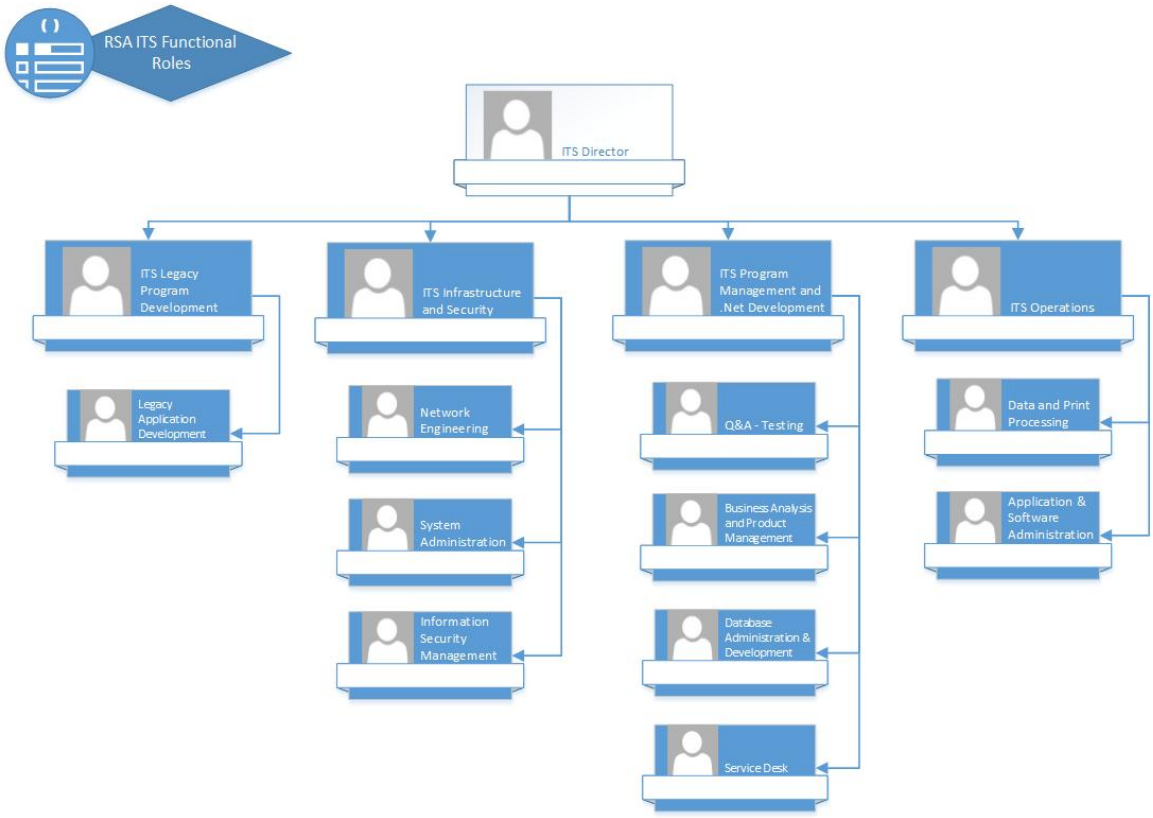
Networking/Infrastructure – The Network/Infrastructure team provides mid to senior level implementation and support services for RSA's entire infrastructure including router, switch, firewall, server, VMware, SAN, and VoIP technologies.

Development – Through proper change control processes, this group handles all code changes, SQL data maintenance requirements, and provides primary support for all in-house developed RSA applications. They work with the Program Management Group (Business Analysts) to identify, create requirements, develop code and test code changes related to production issues and/or projects required by the business owners within the agency. The majority of the applications which integrate RSA's core pension system are composed of a mixture of legacy, object oriented, and web service based technologies. The applications are mainly maintained in-house by RSA programmers, as well as other purchased software products.

Program Management - This group oversees the day-to-day IT processes of RSA's applications (both in-house and purchased) including determining when changes are needed in current business application software. They handle all business requirements gathering, project management, and testing of applications before a code release or following major changes. The Product Management Group also manages the ongoing educational curriculums available to RSA employees utilizing IT applications.

Operations – This group manages the ITS operational schedule to ensure all daily, weekly, monthly, quarterly and yearly processes are processed and are processed on schedule. Approximately 90% of all mailings RSA sends out to its members are printed by the Operations department including 1099 forms and member statements. They are also responsible for ensuring payroll files are sent to the comptroller, contributions are correctly posted to member accounts, and other high priority functions which require a high degree of data processing integrity.

Information Security – This group is responsible for monitoring policies and procedures as related to data privacy and security. Information Security constantly monitors the network, both internally and externally, to detect possible intrusions or breaches. Due to PEEHIP (which shares office space and certain management and ITS personnel with RSA and is to be included within the scope of the services to be provided hereunder) officially falling under the HIPAA statute, Information Security plays a vital role to ensure all legal obligations are met and best practices are followed such as ensuring secure coding standards are used throughout the development life cycle of an application.



C. Proposal Timetable

July 31, 2019 – RFP issued.

August 5, 2019 at 3:00 p.m. CST – Deadline to schedule 30-minute on-site interviews with RSA personnel prior to proposal. Request interview via email to Brian.Butler@rsa-al.gov.

August 12-13, 2019 – On-site interviews with RSA personnel.

August 16, 2019 at 5:00 p.m. CST – Deadline for any questions from prospective vendors. All vendor questions must be submitted via email. Responses will be posted on the RSA website.

August 27, 2019 at 5:00 p.m. CST – RSA's responses to vendor questions will be posted on the RSA website.

September 4, 2019 at 2:00 p.m. CST – deadline for receipt of sealed proposal.

September 9, 2019 – Finalist Interviews, if needed.

RSA completes the review and awards the bid.

All proposals will be submitted (three (3) copies) in a sealed wrapper with the following plainly marked on the front:

RETIREMENT SYSTEMS OF ALABAMA
ITS SECURITY SERVICES
RFP 19000000008
OPENING September 4, 2019

Proposals will be sent:

Via UPS or FedEx to: Via US Mail to:

Retirement Systems of Alabama Retirement Systems of Alabama
Director of Office Services Director of Office Services
201 South Union Street PO Box 302150
Montgomery, Alabama 36104 Montgomery, Alabama 36130-2150

Proposals may be hand delivered to Room 574 of the Retirement Systems Building, 201 South Union Street, Montgomery, Alabama. Proposals will be accepted until 2:00 p.m. CST and opened at that time. Proposals will not be accepted after this time. The RSA reserves the right to reject any and all responses to this RFP.

D. Delivery Schedule

Security and Penetration Testing Reports must be completed within each fiscal year.

Final reports per engagement should consist of the following sections:

Executive Summary – appropriate for senior management to review and understand the current level of risk.
Introduction – including the scope and methodology used for this assessment.
Findings and Recommendations – providing sufficient technical detail for the IT team to understand and replicate the issue.
Analysis Work Notes – documenting all control and/or vulnerability categories tested and the results of the testing.
Deliverable must be in PDF format and shall be delivered encrypted or via another secure method.
In addition, a presentation of findings to executive management and the technical team may be required.

E. Payment Schedule

Payment will be made upon completion of each statement of work.

F. Selection of Firm

The RSA expects to employ the successful vendor. All responding vendors will be notified in writing within a reasonable length of time following the selection. Prior to the selection of a firm, two or more vendors may be requested to make oral presentations to the evaluation committee. The proposal shall become the property of the RSA.

G. Economy of Preparation

Proposals should be prepared simply and economically and provide a concise description of the bidder's response to the requirements of this RFP. Emphasis should be on clarity. The RSA will not be responsible for any costs incurred by any bidder in the preparation of a proposal or oral presentation to evaluation committee.

H. News Releases

News releases pertaining to this RFP or the service to which it relates will be made only with prior written approval of the CEO or his representative.

I. Addenda to the RFP

Any modifications made to the RFP prior to the proposal due date will be provided in writing to all solicited vendors and placed on the RSA website.

J. Contact Point

Any questions that arise concerning this RFP may be directed to Miss Shanon McWhorter at Shanon.McWhorter@rsa-al.gov or Brian Butler at Brian.Butler@rsa-al.gov.

K. Minimum Qualifications

Proposals will be accepted from firms where both the firm and the assigned personnel meet the following minimum qualifications:

All firm personnel assigned to the RSA engagement must be able to pass a national background check completed at the firm's expense.

All firm personnel assigned to the RSA engagement must sign and accept a non-disclosure and confidentiality agreement.

In accordance with Act 2012-491, as a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or a state-funded entity to a business entity or employer that employs one or more employees within the State of Alabama, the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E-Verify Program. The awarded firm will be required to submit a completed and notarized Certificate of Compliance as well a copy of their entire E-Verify Memorandum of Understanding (MOU) issued by the U.S. Department of Homeland Security.

All firms must sign and complete a HIPAA Business Associate Agreement (BAA Agreement).

Furnish resumes for primary persons responsible for the engagement reflecting relevant experience.

All primary persons responsible for the engagement must have at minimum 5 years' experience in security design and testing of Microsoft .Net, Microsoft SQL Server, Word Press, and Cisco Systems networking.

Describe the firm's number of employees, client base, and location of offices.

Furnish references from a minimum of three clients for whom the firm has completed Security and Network Testing services.

Provide a statement of whether the firm or any of the firm's employees, agents, independent contractors, or subcontractors have been convicted of, pled guilty to, or pled *nolo contendere* to any felony, and if so, an explanation providing relevant details.

Provide a statement of whether there is any concluded or pending litigation against the firm or firm employees related to a contracted engagement; and if such litigation exists, an attached opinion of counsel as to whether the pending litigation will impair the firms performance in a contract under this RFP.

Provide a statement of whether the firm intends to use subcontractors, and if so, the names and mailing addresses of the committed subcontractors and a description of the scope and portions of the work the subcontractors will perform.

The RSA may require the apparent successful firm to provide proof of adequate worker's compensation and public liability insurance coverage, along with cybersecurity insurance before entering into a contract. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the RSA shall be in form and substance acceptable to the State of Alabama.

Please describe how your firm would comply with this requirement if required.

L. Engagement Requirements

Perform remote blackbox penetration test against target IP addresses 74.254.150.1-126 and 74.254.150.208-223.
  - o All network level security tests will be performed with no authentication and will emulate a real attacker.

Perform blackbox web-application Security Review for the https://mso.rsa-al.gov application "MSO".
  - o Perform two phase targeted attack (Unauthenticated and Authenticated) on applications within target DMZ .
  - o Perform traditional recon on hosts in scope identifying known and unknown vulnerabilities through manual and automated tools and techniques.

Perform blackbox web-application Security Review for the https://ess.rsa-al.gov application "ESS".
  - o Perform two phase targeted attack (Unauthenticated and Authenticated) on applications within target DMZ .
  - o Perform traditional recon on hosts in scope identifying known and unknown vulnerabilities through manual and automated tools and techniques.

Social Engineering (targeted emails, email attachments and luring victims to external websites) as approved by RSA Security.

Provide wireless security testing services at the RSA HQ Building located at 201 South Union Street Montgomery, AL 36104.

Provide a daily report of each ongoing test(s) to the Security Manager.

Provide detail reports at the end of each test with sample code input and outputs to ensure development team can determine how to fix the issue.

Contact RSA's Security Manager immediately in the event a high risk vulnerability is identified and confirmed for remediation.

Provide a time table and schedule of events.

Provide retesting services within 3 months of the initial test ensure noted deficiencies have been remediated or risk has been accepted.

M. Additional Service Rates

RSA requests bidder provide standard rate fees for services as cited below. A statement of work (sow) would be issued in the event the additional services are needed in the future.

a. Provide hourly rates for the following types of security assessments. The Contractor shall not be compensated for travel time to the primary location of service provision.

	Senior Level 10 to 15+ Years Experience	**Mid-level 5 to 10 Years Experience**
External Network Vulnerability Assessments	**$ hourly rate**	**$ hourly rate**
Internal Network Vulnerability Assessments	**$ hourly rate**	**$ hourly rate**
Server Configuration and Design Reviews	**$ hourly rate**	**$ hourly rate**

Firewall Reviews and Network Design Best Practices	**$ hourly rate**	**$ hourly rate**
Web Application Assessments and Best Practices	**$ hourly rate**	**$ hourly rate**
Application Code Reviews and Best Practices	**$ hourly rate**	**$ hourly rate**
Database Code Review and Best Practices	**$ hourly rate**	**$ hourly rate**
Social Engineering Assessments	**$ hourly rate**	**$ hourly rate**
Wireless Assessments	**$ hourly rate**	**$ hourly rate**
Physical Security Assessments	**$ hourly rate**	**$ hourly rate**
VPN Configuration Reviews	**$ hourly rate**	**$ hourly rate**
PCI Quarterly Scans	**$ hourly rate**	**$ hourly rate**
PCI Report on Compliance Assessment or Gap Analysis	**$ hourly rate**	**$ hourly rate**
Detection, Reporting, and Remediation Services	**$ hourly rate**	**$ hourly rate**
Forensic Analysis Services	**$ hourly rate**	**$ hourly rate**

b. Hourly payment rates shall include all administrative, software tool, and travel costs. The RSA will not pay any costs for projects apart from hourly payment rates.

Section II

Information Required from Bidders

Proposals must be submitted in the format outlined below:

A. Qualifications of the Firm

1. Business Organization

State the full name and address of your organization, and if applicable, the branch office or other subordinate element that will perform or assist in performing the work hereunder. Indicate whether you operate as an individual, partnership, limited liability company, or corporation; include the state in which you were formed or incorporated. State whether you are licensed to operate in the State of Alabama.

2. Prior Experience

As part of your proposal, include a brief statement (maximum five pages) concerning the relevant experience of persons from your firm who will be associated at the highest management levels, with the proposed engagement. Do not include general corporate background brochures. Emphasize experience directly applicable Security and Penetration testing services.

3. Personnel

Identify lead individuals by name and title and include a resume of each.

4. Authorized Officials

Include the names and telephone numbers of personnel authorized to execute the proposed contracts with the RSA.

5. Current RSA Customers or Tenants

Any potential bidders who are currently RSA Customers or Tenants cannot submit a proposal in response to this RFP due to the conflict of interest.

6. Additional Information and Comments

Include any other information believed to be pertinent but not specifically requested elsewhere in this RFP.

B. Planned Approach

Include detailed testing procedures and technical expertise by phase.
This section should include a description of each major type of work being

requested of the vendor. The proposal should reflect each of the sections listed below:

	Security Services
1	External Network Vulnerability Assessments
2	Internal Network Vulnerability Assessments
3	Server Configuration and Design Reviews
4	Firewall Reviews and Network Design Best Practices
5	Web Application Assessments and Best Practices
6	Application Code Reviews and Best Practices
7	Database Code Review and Best Practices
8	Social Engineering Assessments
9	Wireless Assessments
10	Physical Security Assessments
11	VPN Configuration Reviews
12	PCI Quarterly Scans
13	PCI Report on Compliance Assessment or Gap Analysis
14	Detection, Reporting, and Remediation Services
15	Forensic Analysis Services

C. Cost and Price Analysis

Cost proposals should be based on (Section I N.) Engagement Requirements and (Section I M.) Additional Service Rates for years 2020, 2021, 2022, 2023.

1. Personnel Costs

Itemize each personnel category with a different rate per hour per classification required by the vendor in the performance of the contract. Category; e.g. senior level and mid-level

2. Five-year cost analysis

RSA intends to enter into a five year contract for IT Security Services. Be specific for years two, three, four, and five.

1. Savings anticipated through increased efficiencies as you gain increased knowledge of the RSA ITS network and applications.

2. Factors that will be considered and the relevant weighting factor of each on annual fee adjustments.

3. Your willingness to annually disclose and discuss hourly rate adjustments by each employee classification to the engagement.

Section III
Criteria for Evaluation

A. General

Proposals will be evaluated by an evaluation committee. Selection will be based on all factors listed below and others implicit within the RFP and will represent the best performance and most reasonable costs for the RSA. Oral presentations and interviews may be required as part of the evaluation criteria.

B. Factors

The following factors will be the minimum criteria in making the selection (order does not indicate priority):

1. Price

This criterion shall be judged by its reasonableness in relation to the merits of the proposal.

2. Qualifications of the Firm for Listed Services

This includes the ability of the vendor to meet the terms of the RFP and the relevancy of recent security engagements.

3. Professional Personnel and Experience

The competence and level of professional personnel who will guide the engagement will be considered. Education, certifications, and security testing experience will measure qualifications of professional personnel.

State of Alabama
Montgomery County

<<SAMPLE>> AGREEMENT TO PROVIDE <<PROFESSIONAL>> SERVICES

This Agreement to Provide <<Professional>> Services (the "Agreement"), which results from RFP <<___-_____>> entitled Request for Proposal for <<Professional>> Services, is made and entered into effective <<_____, 2018>>, by and between the <<Teachers' Retirement System of Alabama and the Employees' Retirement System of Alabama, collectively the Retirement Systems of Alabama ("RSA") /// Public Education Employees' Health Insurance Board, on behalf of the Public Education Employees' Health Insurance Plan of Alabama ("PEEHIP")>>, and <<Insert Contractor Name>>, hereinafter referred to as "Contractor".

Recitals

A. <<To be drafted based upon RFP, Proposal, and services required>>.

B. The parties wish to enter into this Agreement to formalize the terms under which Contractor will provide the services.

Now, Therefore, in consideration of the foregoing and the mutual covenants of the parties contained herein, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Scope of Services. Upon request of <<RSA/PEEHIP>>, Contractor shall perform the following services for <<RSA/PEEHIP>> ("Services"):

a. <<To be drafted based upon RFP, Proposal, and services required>>.

b.

2. Consideration. As consideration for the services rendered pursuant to this Agreement, <<RSA/PEEHIP>> agrees to compensate Contractor in accordance with the rates and fees set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Contractor shall send monthly detailed invoice(s) for all work in arrears. <<RSA/PEEHIP>> shall have thirty (30) days from receipt of an invoice from Contractor to render payment. Should <<RSA/PEEHIP>> dispute any invoiced amount, <<RSA/PEEHIP>> must deliver within thirty (30) days of receipt of invoice written notice to Contractor detailing the specific facts and circumstances of the dispute and shall timely pay all undisputed amounts. The parties agree to work together in good faith to resolve any disputed amounts.

The maximum compensation due to Contractor during the term of this Agreement shall not exceed $_____.

3. Term. This Agreement shall be for the period beginning <<_____>> and ending <<_____>>. <<Depending upon RFP, possibly insert….The parties may, by mutual written consent, renew this Agreement for <<insert #>> additional one year terms upon the same terms and at the same fees contained herein>>.

4. Approvals. Contractor acknowledges and understands that this Agreement is not effective until it has received all required state government approvals, and Contractor shall not begin performing work under this Agreement until notified to do so by <<RSA/PEEHIP>>. Contractor is entitled to no compensation for work performed prior to the effective date of this Agreement.

5. Independent Contractors. Contractor acknowledges that Contractor is an independent contractor, and neither Contractor nor Contractor's employees are to be considered employees of <<RSA/PEEHIP>> or entitled to benefits under the State of Alabama merit system.

6. No State Debt, Etc. Contractor acknowledges that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provisions of this Agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in the Agreement shall be deemed null and void and the remaining provisions shall continue to be valid and enforceable. Contractor may not assign this Agreement or any interest herein or any money due hereunder without the expressed written consent of <<RSA/PEEHIP>>. Contractor's sole remedy for the settlement of any and all disputes arising under the terms of this Agreement shall be limited to the filing of a claim with the Board of Adjustment of the State of Alabama.

In the event of proration of the funds from which this Agreement is to be paid, the Agreement will be subject to termination by <<RSA/PEEHIP>>.

7. Indemnification. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless <<RSA/PEEHIP>>, its administrators, officers, directors, agents and employees (the "Indemnitees"), from and against any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from Contractor's performance of services under this Agreement and/or any other of Contractor's acts and/or omissions under this Agreement.

Contractor acknowledges and agrees that, notwithstanding anything to the contrary contained herein or in any other agreement between the parties hereto, <<RSA/PEEHIP>> shall not indemnify or hold harmless Contractor, its affiliates, administrators, officers, employees or agents. Contractor further acknowledges and agrees that <<RSA/PEEHIP>> shall not be liable to Contractor for any late fees, penalties, collection fees or attorney fees unless specifically agreed to in a writing signed by <<RSA/PEEHIP>>.

8. Insurance. Contractor agrees that Contractor shall maintain or obtain (as applicable), with respect to the activities in which Contractor engages pursuant to any Agreement that results from this RFP, general liability insurance and cyber security insurance in amounts reasonable and customary for the nature and scope of business engaged in by such party. <<With certain services, specific limits and additional requirements will be inserted>>. The foregoing coverages shall be maintained without interruption for the entire term of this Agreement. Contractor shall deliver to <<RSA/PEEHIP>> evidence of such insurance on or before the date the Agreement goes into effect and annually thereafter. <<RSA/PEEHIP>> reserves the right to require additional insurance coverage than listed herein as <<RSA/PEEHIP>> deems appropriate with a thirty day notice to Contractor.

Contractor must provide at least thirty days (10 days in the event of cancellation due to non-payment of premium) prior notice of any cancellation, non-renewal or material change to any insurance policy covered by this Agreement. If any such notice is given, <<RSA/PEEHIP>> shall have the right to require that a substitute policy (ies) be obtained prior to cancellation and replacement Certificate(s) of Insurance shall be provided to <<RSA/PEEHIP>>.

9. Confidentiality and Ownership. Contractor acknowledges that, in the course of performing its responsibilities under this Agreement, Contractor may be exposed to or acquire information that is proprietary or confidential to <<RSA/PEEHIP>> or the companies in which it invests. Contractor agrees to hold such information in confidence and not to copy, reproduce, sell, assign, license, market, transfer or otherwise disclose such information to third parties or to use such information for any purpose whatsoever, without the express written permission of <<RSA/PEEHIP>>, other than for the performance of obligations hereunder or as required by applicable state or federal law. For purposes of this Agreement, all records, financial information, specifications and data disclosed to Contractor during the term of this Agreement, whether submitted orally, in writing, or by any other media, shall be deemed to be confidential in nature unless otherwise specifically stated in writing by <<RSA/PEEHIP>>.

Contractor acknowledges that all data relating to <<RSA//PEEHIP>> is owned by <<RSA/PEEHIP>> and constitutes valuable property of <<RSA/PEEHIP>>. <<RSA/PEEHIP>> shall retain ownership of, and all other rights and interests with respect to, its data (including, without limitation, the content thereof, and any and all copies, modifications, alterations, and enhancements thereto, and any derivative works resulting therefrom), and nothing herein shall be construed as granting Contractor any ownership, license or any other rights of any nature with respect thereto. Contractor may not use <<RSA/PEEHIP>>'s data (including de-identified data) for any purpose other than providing the Services contemplated hereunder. Upon termination of the Agreement, Contractor agrees to return or destroy all copies of <<RSA/PEEHIP>> data in its possession or control except to the extent such data must be retained pursuant to applicable law.

10. State Immigration Law Compliance. By signing this Agreement, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

11. Boycott Prohibition. In compliance with Act 2016-312, Contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

12. Dispute Resolution. For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternate dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

13. Open Records Law Compliance. Contractor acknowledges that <<RSA/PEEHIP>> may be subject to Alabama open records laws or similar state and/or federal laws relating to disclosure of public records and may be required, upon request, to disclose certain records and information covered by and not exempted from such laws. Contractor acknowledges and agrees that <<RSA/PEEHIP>> may comply with those laws without violating any provision of Contractor's proposal or this final Agreement. Contractor agrees to intervene in and defend any lawsuit brought against <<RSA/PEEHIP>> or any of its employees, agents or directors, for their refusal to provide Contractor's alleged confidential and/or proprietary information to a requesting party. <<RSA/PEEHIP>> shall provide Contractor written notice of any such lawsuit within ten (10) days of receipt of service. Contractor shall intervene within thirty (30) days of notice or will be deemed to have waived any and all claim that the information is confidential and/or proprietary and any and all claims against <<RSA/PEEHIP>> for disclosure of Contractor's alleged confidential and/or proprietary information.

14. Applicable Law. This Agreement shall be governed by and construed in accordance with Alabama law, without giving any effect to the conflict of laws provision thereof.

15. Termination.

Termination for Convenience: This Agreement may be terminated for any reason by either party with the submission of a thirty (30) day written notice thereof.

Termination for Default: <<RSA/PEEHIP>> may terminate immediately all or any part of this Agreement, by giving notice of default by Contractor, if the Contractor (1) refuses or fails to deliver the goods or services within the time specified, (2) fails to comply with any of the provisions of the Agreement or so fails to make progress as to endanger or hinder performance, (3) becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of termination for default, <<RSA/PEEHIP>>'s liability will be limited to the payment for goods and/or services delivered and accepted as of the date of termination.

16. Entire Agreement. It is understood by the parties that this instrument, including its exhibit(s), contains the entire agreement of the parties with respect to matters contained herein; provided that the parties may choose to enter into letters of engagement periodically during the term of this agreement to more specifically delineate the parameters of the services. In such event, the order of precedence will be this contract first and then the letters.

<<17. Additional Clauses and Sample Contract Clause Disclaimer. This form Agreement contains certain non-negotiable mandatory state law clauses as well as offers a starting point for negotiation of additional clauses and is included for the purpose of allowing proposers to an RFP to be aware of the foregoing clauses prior to submitting a proposal. RSA/PEEHIP reserves the right to change any of the clauses contained herein or insert additional clauses before sending a draft copy of the Agreement to Contractor.>>

In Witness Whereof, the parties have executed this Agreement effective as of the date first provided above.

_____

Contractor's Federal Tax ID Number

Conduent HR Consulting, LLC

By: _____

Its: _____

<<RSA/PEEHIP>>

By: David G. Bronner

Its: <<Secretary-Treasurer/Chief Executive Officer>>

Legally Reviewed and Approved by:

Legal Counsel for <<RSA/PEEHIP>>

Approved:

Governor Kay Ivey

State of Alabama

Exhibit A
Consideration

<<RSA/PEEHIP>> shall pay to Contractor the following fees in accordance with the terms more specifically set forth in the Agreement:

State of Alabama

Disclosure Statement

by Act 2001-955)

ENTITY COMPLETING FORM ADDRESS

CITY, STATE, ZIP TELEPHONE NUMBER

( )

STATE AGENCY/DEPARTMENT THAT WILL RECEIVE GOODS, SERVICES, OR IS RESPONSIBLE FOR GRANT AWARD ADDRESS

CITY, STATE, ZIP TELEPHONE NUMBER

( )

This form is provided with:

Contract Proposal Request for Proposal Invitation to Bid Grant Proposal

Have you or any of your partners, divisions, or any related business units previously performed work or provided goods to any State Agency/Department in the current or last fiscal year?

Yes No

If yes, identify below the State Agency/Department that received the goods or services, the type(s) of goods or services previously provided, and the amount received for the provision of such goods or services.

Have you or any of your partners, divisions, or any related business units previously applied and received any grants from an y State Agency/Department in the current or last fiscal year?

Yes No

If yes, identify the State Agency/Department that awarded the grant, the date such grant was awarded, and the amount of the grant.

1. List below the name(s) and address(es) of all public officials/public employees with whom you, members of your immediate family, or any of your employees have a family relationship and who may directly personally benefit financially from the proposed transaction. Identify the State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

OVER

2. List below the name(s) and address(es) of all family members of public officials/public employees with whom you, members of your immediate family, or any of your employees have a family relationship and who may directly personally benefit financially fro m the proposed

transaction. Identify the public officials/public employees and State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

NAME OF FAMILY MEMBER	NAME OF PUBLIC OFFICIAL/ ADDRESS	STATE DEPARTMENT/ PUBLIC EMPLOYEE	AGENCY WHERE EMPLOYED

If you identified individuals in items one and/or two above, describe in detail below the direct financial benefit to be gained by the public officials, public employees, and/or their family members as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

Describe in detail below any indirect financial benefits to be gained by any public official, public employee, and/or family members of the public official or public employee as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

List below the name(s) and address(es) of all paid consultants and/or lobbyists utilized to obtain the contract, proposal, request for proposal, invitation to bid, or grant proposal:

NAME OF PAID CONSULTANT/LOBBYIST	ADDRESS

By signing below, I certify under oath and penalty of perjury that all statements on or attached to this form are true and correct to the best of my knowledge. I further understand that a civil penalty of ten percent (10%) of the amount of the transaction, not to exceed $10,000.00, is applied for knowingly providing incorrect or misleading information.

Signature Date

Notary's Signature Date Date Notary Expires

Act 2001-955 requires the disclosure statement to be completed and filed with all proposals, bids, contracts, or grant proposals to th e State of Alabama in excess of $5,000.

Form **W-9** (Rev. November 2017) Department of the Treasury Internal Revenue Service

Request for Taxpayer **Identification Number and Certification**

Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Individual/sole proprietor or single-member LLC
C Corporation S Corporation Partnership Trust/estate

Exempt payee code (if any)

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) #

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) #

Exemption from FATCA reporting code (if any) __

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

Social security number

– –

or

Employer identification number

–

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting,* later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code,* later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships,* earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code,* later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	**THEN check the box for . . .**
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single- member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation
6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
7—A futures commission merchant registered with the Commodity Futures Trading Commission
8—A real estate investment trust
9—An entity registered at all times during the tax year under the Investment Company Act of 1940
10—A common trust fund operated by a bank under section 584(a) 11—A financial institution
12—A middleman known in the investment community as a nominee or custodian
13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

1 See Form 1099-MISC, Miscellaneous Income, and its instructions.

2 However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a) J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester,* later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.SSA.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code,* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

1 List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

2 Circle the minor's name and furnish the minor's SSN.

3 You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

4 List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships,* earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov.* You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint.* You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

State of _____
County of _____

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by ACT 2012-491)

DATE: _____

RE: Contract/Grant/Incentive (*describe by number or subject):* _____ **by and between** _____ **(Contractor/Grantee) and** _____ **(State Agency, Department of Public Entity)**

The undersigned herby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of **THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT** (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/ Grantee's business structure.

BUSINESS ENTITY: Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:

a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license and any business entity that is operating unlawfully without a business license.

EMPLOYER: Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

___(a) the Contractor/grantee is a business entity or employer as those terms are defined in Section 3 of the Act. The Contractor/ Grantee must attach a copy of its complete *E-Verify Memorandum of Understanding* issued and electronically signed by the U.S. Department of Homeland Security when the business entity or employer enrolls in the E-Verify program to this Certificate of Compliance.

___(b) The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. Contractor/Grantee is enrolled in E-verify unless it is not eligible to enroll because of the rules of that program or other factor beyond its control.

Certified this_____day of _____20 ___.

Name of Contractor/Grantee/Recipient
By:

Its:

The above Certification was signed in my presence by the person whose name appears above, on

This_____day of _____20_____.

WITNESS_____

_____
Printed Name of Witness

BUSINESS ASSOCIATE AGREEMENT

This Agreement is made and entered into this ____ day of _____20__, by and between _____ ("Business Associate") and the Public Education Employees' Health Insurance Board ("Plan Sponsor"), acting on behalf of the Public Education Employees' Health Insurance Plan ("Covered Entity").

WHEREAS, Business Associate and Covered Entity desire and are committed to complying with all relevant federal and state laws with respect to the confidentiality and security of Protected Health Information (PHI), including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996, and accompanying regulations, as amended from time to time (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH), and any regulations promulgated thereunder.

NOW, THEREFORE, for valuable consideration the receipt of which is hereby acknowledged and intending to establish a business associate relationship under 45 CFR §164, the parties hereby agree as follows:

I. Definitions

A. "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [**Insert Name of Business Associate**].

B. "Breach" shall be defined as set out in 45 CFR §164.402.

C. "CFR" means the Code of Federal Regulations. A reference to a CFR section means that section as amended from time to time; provided that if future amendments change the designation of a section referred to herein, or transfer a substantive regulatory provision referred to herein to a different section, the section references herein shall be deemed to be amended accordingly.

D. "Compliance Date(s)" shall mean the date(s) established by the Secretary or the United States Congress as the effective date(s) of applicability and enforceability of the Privacy Rule, Security Rule and HITECH Standards.

E. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR §164.501 and shall include a group of records that is: (i) the enrollment, payment, claims adjudication and case or medical management record systems maintained by or for Covered Entity by Business Associate or (2) used, in whole or in part, by or for Covered Entity to make decisions about Individuals.

F. "Electronic Protected Health Information" (EPHI) shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103, limited to the information received from or created on behalf of Covered Entity by Business Associate.

G. "HITECH Standards" shall mean the privacy, security and security breach notification provisions applicable to a Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act of 2009, as such law may be amended from time to time, and any regulations promulgated thereunder.

H. "Individual" shall have the same meaning as the term "individual" in 45 CFR §160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

I. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164, subparts A and E.

A9. "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information received from or created on behalf of Covered Entity by Business Associate.

AA. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR §164.501.

AB. "Security Incident" shall have the same meanings as the term "security incident" in 45 CFR §164.304.

AC. "Security Rule" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR parts 160 and 164, subparts A and C.

AD. "Unsecured PHI" shall have the same meaning as "unsecured protected health information" in 45 CFR §164.402.

Terms used, but not otherwise defined, shall have the same meaning as those terms in the Privacy Rule, Security Rule and HITECH Standards.

II. Obligations of Business Associate

A. Business Associate agrees not to use or disclose PHI other than as permitted or required by this Agreement or as Required by Law. Business Associate will take reasonable efforts to limit requests for, use and disclosure of PHI to the minimum necessary to accomplish the intended request, use or disclosure and comply with 45 CFR 164.502(b) and 514(d) .

B. To the extent the Business Associate conducts a "Standard Transaction" as outlined in 45 CFR Part 162, Business Associate agrees to comply and to require any agent or subcontractor to comply with all applicable requirements set forth in 45 CFR Part 162.

C. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. Business Associate shall implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Rule.

D. Business Associate agrees to report to Covered Entity any use or disclosure of PHI other than as provided for by this Agreement promptly after Business Associate has actual knowledge of such use or disclosure, and to report promptly to the Covered Entity all Security Incidents of which it becomes aware. Following the discovery of a Breach of Unsecured PHI, Business Associate shall

notify Covered Entity of such Breach without unreasonable delay, and in no event later than 30 calendar days after such discovery. The notification will include the identification of each individual whose Unsecured PHI has been, or is reasonably believed to have been, accessed, acquired or disclosed during the Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known or reasonably should have been known to Business Associate. The parties acknowledge and agree that this section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity is required by applicable laws or regulations. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI, and so long as additional notice to Covered Entity is not required by applicable laws or regulations.

E. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement or applicable regulations. Business Associate has a duty to assist the Covered Entity in any mitigation, notice, reporting, or other remedial actions required, all of which would be at the Covered Entity's request and in the Covered Entity's sole discretion.

F. Business Associate agrees to include in its agreement with any agent or subcontractor to whom it provides PHI on behalf of the Covered Entity conditions with respect to such information that are at least as restrictive as those that apply through this Agreement to Business Associate. Business Associate agrees to ensure that any agents, including sub-agents, to whom it provides EPHI received from, or created or received by Business Associate on behalf of the Covered Entity, agree in writing to implement the same reasonable and appropriate safeguards that apply to Business Associate to protect the Covered Entity's EPHI.

G. If Business Associate maintains PHI in a Designated Record Set, Business Associate agrees to make available to Covered Entity, within a reasonable time, such information as Covered Entity may require to fulfill Covered Entity's obligations to respond to a request for access to PHI as provided under 45 CFR §164.524 or to respond to a request to amend PHI as required under 45 CFR §164.526. Business Associate shall refer to Covered Entity all such requests that Business Associate may receive from Individuals. If Covered Entity requests Business Associate to amend PHI in Business Associate's possession in order to comply with 45 CFR §164.526, Business Associate shall effectuate such amendments no later than the date they are required to be made by 45 CFR §164.526; provided that if Business Associate receives such a request from Covered Entity less than ten (10) business days prior to such date, Business Associate will effectuate such amendments as soon as is reasonably practicable.

H. If applicable, Business Associate agrees to provide to Covered Entity within a reasonable time such information necessary to permit

Covered Entity to respond to a request by an Individual for an accounting of disclosures as provided under 45 CFR §164.528. Business Associate shall refer to Covered Entity all such requests which Business Associate may receive from Individuals.

I. Upon reasonable notice, Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI available to the U.S. Secretary of Health and Human Services, or an officer or employee of that Department to whom relevant authority has been delegated, at Covered Entity's expense in a reasonable time and manner, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

A9. Notwithstanding any other provision in this Agreement, Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered Entity, Business Associate will comply with the HITECH Business Associate provisions and with the obligations of a Business Associate as prescribed by HIPAA and the HITECH Act commencing on the Compliance Date of each such provision. Business Associate and the Covered Entity further agree that the provisions of HIPAA and the HITECH Act that apply to Business Associates and that are required to be incorporated by reference in a Business Associate Agreement are incorporated into this Agreement between Business Associate and Covered Entity as if set forth in this Agreement in their entirety and are effective as of the Compliance Date.

III. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Agreement, Business Associate may:

A. Use or disclose Protected Health Information on behalf of the Covered Entity, if such use or disclosure of Protected Health Information would not violate the Privacy Rule, including the minimum necessary standard, if done by the Covered Entity.

B. Use or disclose PHI to perform the services outlined in the **<applicable services agreement>.**

C. Use Protected Health Information for the proper management and administration of Business Associate or to fulfill any present or future legal responsibilities of Business Associate.

D. Disclose Protected Health Information for the proper management and administration of Business Associate or to fulfill any present or future legal responsibilities of Business Associate, provided that such disclosure is either Required by Law or Business Associate obtains reasonable assurances from any person to whom Protected Health Information is disclosed that such person will: (i) keep such information confidential, (ii) use or further disclose such information only for the purpose for which it was disclosed to such person or as Required by Law, and (iii) notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

E. Use Protected Health Information to provide data aggregation services relating to the health care operations of the Covered Entity, as provided in 45 CFR §164.501.

F. To create de-identified data, provided that the Business Associate de-identifies the information in accordance with the Privacy Rule. De-identified information does not constitute PHI and is not subject to the terms and conditions of this Agreement.

G. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

H. Business Associate agrees to ensure that access to EPHI related to the Covered entity is limited to those workforce members who require such access because of their role or function. Business Associate agrees to implement safeguards to prevent its workforce members who are not authorized to have access to such EPHI from obtaining access and to otherwise ensure compliance by its workforce with the Security Rule

IV. Obligations of Covered Entity

A. Covered Entity shall notify Business Associate of any facts or circumstances that affect Business Associate's use or disclosure of PHI. Such facts and circumstances include, but are not limited to: (i) any limitation or change in Covered Entity's notice of privacy practices, (ii) any changes in, or withdrawal of, an authorization provided to Covered Entity by an Individual pursuant to 45 CFR §164.508; and (iii) any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522.

B. Covered Entity warrants that it will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or is not otherwise authorized or permitted under this Agreement.

C. Covered Entity acknowledges and agrees that the Privacy Rules allow the Covered Entity to permit Business Associate to disclose or provide access to PHI, other than Summary Health Information, to the Plan Sponsor only after the Plan Sponsor has amended its plan documents to provide for the permitted and required uses and disclosures of PHI and to require the Plan Sponsor to provide a certification to the Plan that certain required provisions have been incorporated into the Plan documents before the Plan may disclose, either directly or through a Business Associate, any PHI to the Plan Sponsor. Covered Entity hereby warrants and represents that Plan documents have been so amended and that the Plan has received such certification from the Plan Sponsor.

D. Covered Entity agrees that it will have entered into Business Associate Agreements with any third parties to whom Covered Entity directs and authorizes Business Associate to disclose PHI.

V. Effective Date; Termination

A. The effective date of this Agreement shall be the date this Agreement is signed by both parties (or the Compliance Date, if later).

B. This Agreement shall terminate on the date Business Associates ceases to be obligated to perform the functions, activities, and services described in Article III.

C. Upon Covered Entity's knowledge of a material breach or violation of this Agreement by Business Associate, Covered Entity shall notify Business Associate of such breach or violation and Business Associate shall have thirty (30) days to cure the breach or end the violation. In the event Business Associate does not cure the breach or end the violation, Covered Entity shall have the right to immediately terminate this Agreement and any underlying services agreement if feasible.

D. Upon termination of this Agreement, Business Associate will return to Covered Entity, or if return is not feasible, destroy, any and all PHI that it created or received on behalf of Covered Entity and retain no copies thereof. If the return or destruction of the PHI is determined by Business Associate not to be feasible, Business Associate shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. If return or destruction of the PHI is feasible but Business Associate is required by law to retain such information or copies thereof, Business Associate will maintain the PHI for the period of time required under applicable law after which time Business Associate shall return or destroy the PHI.

E. Business Associate's obligations under Sections II and III of this Agreement shall survive the termination of this Agreement with respect to any PHI so long as it remains in the possession of Business Associate.

VI. Other Provisions

A. The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the Privacy and Security Rules and the HITECH Standards and agree to make any necessary changes to this agreement that may be required by any amendment to the final regulations promulgated by the Secretary If the parties are unable to reach agreement regarding an amendment within thirty (30 days) of the date that Business Associate receives any written objection from Covered Entity, either party may terminate this Agreement upon ninety (90) days written notice to the other party. Any other amendment to the Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

B. Except as it relates to the use, security and disclosure of PHI and electronic transactions, this Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under any other services agreement between them.

C. Business Associate agrees to defend, indemnify and hold harmless Covered Entity, its affiliates and each of their respective directors, officers, employees, agents or assigns from and against any and all actions, causes of action, claims, suits and demands whatsoever, and from all damages, liabilities, costs, charges, debts, fines, government investigations, proceedings, and expenses whatsoever (including reasonable attorneys' fees and expenses related to any litigation or other defense of any claims), which may be asserted or for which they may now or hereafter become subject arising in connection with (i) any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of Business Associate under this Agreement; and (ii) any claims, demands, awards, judgments, actions, and proceedings made by any person or organization arising out of or in any way connected with Business Associate's performance under this Agreement.

D. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

E. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Entity to comply with the Privacy and Security Rules and the HITECH Standards.

F. If any provision of this Agreement is held illegal, invalid, prohibited or unenforceable by a court of competent jurisdiction, that provision shall be limited or eliminated in that jurisdiction to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable

G. This Agreement replaces and supersedes in its (their) entirety any prior Business Associate Agreement(s) between the parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been signed and delivered as of the date first set forth above.

Public Education Employees' Health Insurance Board the Plan Sponsor, acting on behalf of Covered Entity	**<insert name of Business Associate>**
_____ *Signature*	_____ *Signature*
_____ *Printed Name*	_____ *Printed Name*
_____ *Title*	_____ *Title*