

Request for Proposals
for
Professional Auditing Services of
The Retirement Systems of Alabama,
Public Employees' Individual Retirement Account Fund,
Public Employees' Individual Retirement Account Fund/Deferred
Compensation Plan,
Public Education Employees' Health Insurance Plan
&
Alabama Retired Education Employees' Health Care Trust
for
Fiscal Years
2023 through 2027
RFP 23-005
Issue Date: February 27, 2023

THIS RFP CONTAINS INFORMATION UNDER THE FOLLOWING HEADINGS:

SECTION I

General Information for the Proposer

- A. Purpose
- B. Background
- C. Description of the Systems' Management
- D. Other Information
- E. RSA/PEEHIP Resources Available to Vendor
- F. Proposal Timetable
- G. Delivery Schedule
- H. Payment Schedule
- I. Selection of Firm
- J. Economy of Preparation
- K. News Releases
- L. Addenda to the RFP
- M. Contact Point
- N. Minimum Experience Qualifications

SECTION II

Information Required from Proposers

- A. Qualifications of the Firm
- B. Technical Proposal
- C. Cost Proposal

SECTION III

Criteria for Evaluation

- A. General
- B. RSA's Rights
- C. Cost and Price Analysis
- D. Proposal Evaluation Form

SECTION IV

Attachments

- A. State of Alabama Vendor Disclosure Statement (Pursuant to the *Code of Alabama 1975, Title 41, Chapter 16, Article 3B*)
- B. Contract Shell with language required in State of Alabama Contracts
- C. Immigration Compliance Certificate
- D. Bidder Profile
- E. Bidder References
- F. IRS Form W-9
- G. Third-Party Vendor Security Checklist

- H. Business Associate Agreement
- I. Business Associate Policy
- J. Confidentiality and Non-Disclosure Agreement

SECTION I

GENERAL INFORMATION FOR THE PROPOSER

A. PURPOSE:

This Request for Proposals (RFP) solicits proposals from qualified audit firms of certified public accountants to perform audits of the financial statements for fiscal years 2023 through 2027 of the Retirement Systems of Alabama (RSA), the Public Education Employees' Health Insurance Plan (PEEHIP), the Alabama Retired Education Employees' Health Care Trust (Retiree Trust), the Public Employees' Individual Retirement Account Fund (PEIRAF), and the Public Employees' Individual Retirement Account Fund/Deferred Compensation Plan (RSA-1) in accordance with generally accepted auditing standards as set out by the American Institute of Certified Public Accountants. The service will include compliance with the latest GASB Pension and OPEB standards. One vendor will be selected to complete all specified audits and reports.

B. BACKGROUND:

The Retirement Systems of Alabama, hereinafter referred to as RSA, consists of the following entities:

1. Teachers' Retirement System of Alabama (TRS)
2. Employees' Retirement System of Alabama (ERS)
3. Judicial Retirement Fund of Alabama (JRF)
4. Public Employees' Individual Retirement Account Fund (PEIRAF)
5. Public Employees' Individual Retirement Account Fund/Deferred Compensation Plan (RSA-1)

References to the Public Education Employees' Health Insurance Plan ("PEEHIP") herein shall mean the following entities:

6. Public Education Employees' Health Insurance Plan (PEEHIP)
7. Alabama Retired Education Employees' Health Care Trust (Retiree Trust)

Collectively, all of the entities listed under RSA and under PEEHIP shall be referred to as "Systems", and the use of the term "System" may mean any one or more Systems.

The Retirement Systems of Alabama are public employee retirement systems (PERS) and as such are not subject to requirements under the Employees' Retirement Income Security Act (ERISA). The Systems are keenly interested in any Federal regulatory legislation. RSA and PEEHIP comply with the guidelines set out by the Governmental Accounting Standards Board (GASB) in their financial reporting.

Financial Statements for the TRS, ERS, and JRF are contained in the RSA Annual Comprehensive Financial Report (ACFR) and separate financial statements are prepared for PEIRAF, RSA-1, PEEHIP, and the Retiree Trust. All these financial statements can be found on the RSA website.

C. DESCRIPTION OF THE SYSTEMS' MANAGEMENT:

The Retirement Systems of Alabama are under the management of the Boards of Control of the TRS and the ERS. The Public Education Employees' Health Insurance Board administers the self-insurance plan and the Retiree Trust with daily administrative responsibility for this fund under the RSA administrative staff. The PEIRAF Board administers both PEIRAF and RSA-1 through the Retirement Systems' administrative staff. The TRS and ERS have jointly employed the Secretary-Treasurer as its Chief Executive Officer (CEO) and several other administrative personnel which allows for greater efficiencies by consolidating operations of the RSA by function. The CEO works closely with the Boards' Investment Committees in making the Systems' Investments. An investment staff assists the CEO in performing research and making investment recommendations.

The TRS and ERS Boards of Control jointly contract with three independent physicians who comprise the Medical Board, which reviews for approval all applications for disability retirement benefits.

Currently, Cavanaugh Macdonald Consulting, LLC, performs the retirement and retiree health care actuarial valuations and advises the Systems' Boards and staff concerning actuarial issues. Additionally, the firm assists the RSA in determining the estimated cost of any proposed retirement legislation.

Segal Consulting provides consultant services for the PEEHIP insurance and flex plans on matters associated with plan design, rate structure, and contract negotiations with the third-party administrators.

A-LIGN annually performs the following:

- SOC 1 Type 2 pursuant to SSAE 21 for RSA
- SOC 1 Type 2 pursuant to SSAE 21 for PEEHIP
- SOC 2 Type 2 performed under AT-C 105 and AT-C 205 for the RSA Data Center Hosting Services System for the controls relevant to security, processing integrity and confidentiality

The most recent reports are for the year ended 9/30/2022.

D. OTHER INFORMATION:

The following documents are considered a part of this RFP:

RSA Website – www.rsa-al.gov

1. RSA Annual Comprehensive Financial Report (ACFR) – 2022
2. TRS Summary Plan Description
3. ERS Summary Plan Description
4. Member Handbooks for TRS, ERS, State Police, JRF, and PEEHIP
5. RSA-1 Publications
6. PEEHIP Publications

Alabama Legislature Website – <https://alison.legislature.state.al.us/code-of-alabama>

1. TRS Law – *Code of Alabama 1975, Title 16, Chapter 25*
2. ERS Law – *Code of Alabama 1975, Title 36, Chapter 27*
3. JRF Law – *Code of Alabama 1975, Title 12, Chapter 18*
4. PEIRAF Law – *Code of Alabama 1975, Title 36, Chapter 27A*
5. PEEHIP Law – *Code of Alabama 1975, Title 16, Chapter 25A*
6. PEEHIP Retiree Trust Law – *Code of Alabama 1975, Title 36, Chapter 36*

E. SYSTEMS’ RESOURCES AVAILABLE TO VENDOR:

The Systems will make the following resources available to the contractor: sufficient workspace, internet connections, copies of client-prepared work papers, personnel for interviews as requested, trial balances, and other work paper analyses as requested. PEEHIP third party administrators will also work with auditors as necessary.

RSA personnel prepare all financial statements and notes.

F. PROPOSAL TIMETABLE:

RFP Issued	February 27, 2023, 2:00 p.m. CST
Deadline for receipt of questions	March 6, 2023, 5:00 p.m. CST
Responses to questions posted to RSA’s website	March 13, 2023, 5:00 p.m. CST
Proposals Due	March 27, 2023, 2:00 p.m. CST
Finalist Interviews	April 3 - 7, 2023
Award Contract	April 12, 2023

All proposals will be submitted (six (6) copies) in a sealed wrapper with the following plainly marked on the front:

RETIREMENT SYSTEMS OF ALABAMA
AUDIT PROPOSAL
RFP 23-005
OPENING March 27, 2023

In addition to the six physical copies of your proposal, you must provide your proposal in electronic format. We also request a redacted physical copy and in electronic format.

Proposals sent via FedEx or UPS:

Taylor Benefield
Retirement Systems of Alabama
201 South Union Street
Montgomery, Alabama 36104

Proposals sent via U.S. Mail:

Taylor Benefield
Retirement Systems of Alabama
PO Box 302150
Montgomery, Alabama 36130-2150

Proposals may be hand delivered to Taylor Benefield at the Retirement Systems Building, 201 South Union Street, Montgomery, Alabama. Proposals will be accepted until 2:00 p.m. CST on March 27, 2023 and opened at that time. Proposals will not be accepted after this time. The RSA reserves the right to cancel this RFP at any time and/or to reject any and all responses to this RFP.

G. DELIVERY SCHEDULE:

For each fiscal year, the financial statement audit must be completed with opinions issued by January 15th for the immediately preceding September 30 fiscal year end. The specified element reports related to GASB 67 & 68 for TRS, and JRF must be completed with opinions issued by March 31st and by May 1st for ERS for the immediately preceding September 30 fiscal year end. Specified element report related to GASB 74 & 75 for PEEHIP must be completed with an opinion issued by March 31st for the immediately preceding September 30 fiscal year end.

H. PAYMENT SCHEDULE:

Payments will be made monthly based upon the firm's progress toward completion of the engagement. The final bill for each year's audit will be paid within 30 calendar days after all reports and corresponding detailed invoice(s) have been received.

I. SELECTION OF FIRM:

The RSA reserves the right to make no award under this RFP; however, the RSA expects to enter into a five-year contract with the successful proposer to perform the auditing services described herein. All entities submitting a proposal under this RFP will be notified in writing within a reasonable length of time following the selection. Prior to an award of contract, one or more proposers who submit proposals determined to be reasonable of being selected for award may be requested to make oral presentations to the evaluation committee; however, proposals may be accepted, and a final selection made, without such oral presentations. All proposals shall become the property of the RSA.

Internet and/or website links will not be accepted in responses as a means to supply any requirements stated within this solicitation. Unless stated elsewhere in this solicitation, RSA will accept and evaluate alternate submittals on this RFP provided that the response meets all published requirements. RSA reserves the right to waive minor discrepancies or errors within proposals or to request clarification from a proposer to the extent allowed by law.

The failure of RSA to require performance of any provision of this solicitation or resulting contract shall not affect RSA's right to require performance at any time thereafter, nor shall a waiver of any breach or default constitute a waiver of any subsequent breach or default nor constitute a waiver of the provision itself.

J. ECONOMY OF PREPARATION:

Proposals should be prepared simply and economically and provide a concise description of the proposer'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 proposer in the preparation of a proposal or oral presentation to evaluation committee.

K. NEWS RELEASES:

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

L. ADDENDA TO THE RFP:

RSA may, at any time prior to the deadline for proposals, modify this RFP, including the timeline associated with the RFP. Any modifications made to the RFP prior to proposal due date will be provided in writing to all solicited vendors and proposers.

M. CONTACT POINT:

Any questions that arise concerning this RFP may be directed to Taylor Benefield at Taylor.Benefield@rsa-al.gov. All questions must be received by the deadline for questions provided in the RFP timeline chart above. RSA will post all questions and answers on RSA's website by the deadline for answers provided in the RFP timeline chart above.

N. MINIMUM EXPERIENCE QUALIFICATIONS:

Proposals will be accepted from firms where both the firm and the assigned audit engagement management meet the following minimum experience qualifications:

1. Performed audits of large governmental entities reporting under the Governmental Accounting Standards Board. You must include a list of such governmental audit clients in the last five years with contact information.
2. Performed audits of public employees' pension plans during the most recent five fiscal years. You must include contact information for those clients.
3. Performed audits of a self-insured health insurance plan. [Specify largest self-insured plan and state whether it included retirees].
4. Performed audits of entities with a large diversified investment portfolio including alternative investments. [Specify size of largest investment portfolio audited and list some of the types of investments contained therein].

5. Furnish resumes for the primary persons responsible for the audit reflecting relevant experience.
6. Furnish any references requested above and any other further documentation to support meeting the above qualifications.

O. CONFIDENTIALITY

All material and information received by a proposer related to this RFP or the services being requested hereunder shall be kept confidential by the proposer. Confidential information may not be used by any proposer except in the fulfillment of a contract resulting from this RFP and must be kept confidential and handled in conformity with all applicable federal and state laws.

If access to any System's census data is required to issue a proposal or complete the work resulting from this RFP, the data must be returned or destroyed within 30 days of the receipt of the related proposal or report. RSA must be provided with a certification that this requirement has been fulfilled.

The successful proposer must sign a Business Associate Agreement prior to receiving any System data and beginning any work. See the attached Business Associate Agreement in the Attachments section of this RFP. Any exception proposer has with the attached agreement must be provided to the Systems with the proposer or is deemed waived.

Proposals may be subject to disclosure and/or reproduction under Alabama's open records laws once a contract has been awarded.

SECTION II

INFORMATION REQUIRED FROM PROPOSERS

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, or corporation. If you operate as a corporation, include the state in which you 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 audit and specified element reports. Do not include general corporate background brochures. Emphasize experience directly applicable to public pension systems and self-insurance plans for employee & retiree health care. List contact person for your large public pension and self-insurance clients.

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 in your organization authorized to execute the proposed contracts with the RSA and PEEHIP.

5. PERSONALLY IDENTIFIABLE INFORMATION:

Describe any policies, procedures, and/or training that your firm has in place or your employees have attended regarding the security of client information. Please provide a copy of your firm's most recent SOC 2 Type 2 report and HITrust Certification.

6. STAFFING

Staffing for accounting is challenging. Describe how you will provide adequate staffing in order to meet the deadlines for reports described above.

7. ADDITIONAL INFORMATION AND COMMENTS:

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

B. TECHNICAL PROPOSAL:

1. STATEMENT OF SIGNIFICANT AREAS OF AUDIT CONCERN:

State in your own words your understanding of significant areas of audit concern or critical audit areas.

2. PLANNED APPROACH:

Prepare a description of the approach you anticipate following in the critical audit areas listed above. Describe the approach you anticipate following for each asset category and each area of operating revenues and expenditures. Be specific indicating expected use of confirmation, examination, analytical review, comparative analysis, etc.

3. CONFIRMATION OF CERTAIN STATE OF ALABAMA BIDDING REQUIREMENTS:

a. Section 41-4-142 of the Code of Alabama 1975 (Act No. 2006-557) provides that every proposal submitted and contract executed shall contain a certification that the contractor, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting, and remitting Alabama State and local sales, use, and/or lease tax on all taxable sales and leases into Alabama. Please confirm that your firm is in full compliance with Section 41-4-142, you are not barred from bidding or proposing or entering into a contract as a result, and you acknowledge that RSA may declare the contract void if this certification is false.

b. RSA reserves the right to request written proof of qualifications, including without limitation, professional licenses, certificates of insurance, etc. Confirm your firm will promptly comply with all such requests.

c. RSA reserves the right to conduct analyses based on cost realism and/or price reasonableness for any and all proposals as determined necessary in RSA's sole discretion. Such analysis may include the requests listed in Section 41-4-141 of the Code of Alabama 1975. Confirm your firm will promptly comply with any such requests by RSA.

d. Confirm that you certify that neither the proposing entity nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency. If proposer cannot certify this statement, supplier must attach a written explanation for review by RSA.

e. Confirm that you are not currently, nor have you ever been, in any agreement of collusion among suppliers in restraint of freedom of competition by agreement to propose at any certain fixed price or to refrain from proposing.

f. Confirm that you have read and understands this RFP and the terms and conditions included herein. All proposers must state any and all exceptions it takes with the requirements set forth in this RFP and/or with any of the terms or conditions contained in the RFP and any of its

attachments. Only the exceptions clearly identified in the proposal will be considered by RSA (however, RSA is under no obligation to agree to those exceptions).

C. COST PROPOSAL:

The proposed fee should include any and all costs incurred in relation to the completion of the services included in this RFP. The information requested in this Section is required to support the reasonableness of your proposal price. Your proposal must include a Fee Schedule for fiscal years 2023, 2024, 2025, 2026, and 2027. Please list the title and projected work hours for each staff category (modify titles as needed) in the following format:

Staff Category	Average Hourly Rate	RSA Audit Estimated Hours	RSA Audit Cost
Partner			\$ -
Manager			-
Senior			-
Staff			-
	RSA Audit Total	0	-
Staff Category	Average Hourly Rate	PEEHIP & Retiree Trust Audit Estimated Hours	PEEHIP & Retiree Trust Audit Cost
Partner			-
Manager			-
Senior			-
Staff			-
	PEEHIP & Retiree Trust Audit Total	0	-
	TRS GASB 68 Specified Element Report Total		-
	ERS GASB 68 Specified Element Report Total		-
	JRF GASB 68 Specified Element Report Total		-
	PEEHIP Retiree Trust GASB 75 Specified Element Report Total		-
	Contract Grand Total	0	\$ -

SECTION III

CRITERIA FOR EVALUATION

A. GENERAL:

The following process will be used to evaluate vendor proposals:

- a. A review committee will evaluate each proposal submitted in response to these Proposal specifications.
- b. Responses received within the time frame and in the form specified by the guidelines will first be evaluated to confirm that all proposal sections, as detailed, have been provided in the Proposal response.
- c. Each proposal will be reviewed and points awarded to all items indicated on the Proposal Evaluation Form. Any proposal component may be awarded points not to exceed the maximum specified on the Proposal Evaluation Form. The total technical score available is 70 points.
- d. Each proposal component will be summed to obtain a total score.
- e. RSA will conduct interviews with the finalists.

B. RSA's RIGHTS

Proposers should note that RSA reserves the right to modify this evaluation structure if it is deemed necessary or request additional information from vendors. It is the intention of RSA to select the most qualified and cost-effective proposal based on the evaluation of the Proposer's responses to this RFP. However, RSA reserves the right to ask proposers for additional information and/or an oral presentation to clarify their proposals. RSA also reserves the right to cancel or terminate the RFP or reject any or all proposals received in response to this RFP.

C. COST AND PRICE ANALYSIS:

The cost evaluation will be based on an examination by the Evaluation Committee of each Proposer's stated cost components and will constitute 30% of the overall proposal's evaluation. The preparation of your reports should be a fixed price. Billing is to be submitted with the detail, by staff member, of hours worked on each task. The total paid to the selected vendor for your reports will not exceed the proposed cost unless both parties agree in writing.

Cost scoring will be determined as follows:

- a. Cost proposals must be provided in a separate envelope clearly labeled "Cost Proposal."
- b. The Proposer submitting the lowest cost Proposal will receive 30 points.
- c. All other Proposers will be evaluated by use of the following formula:

$$\frac{\text{Lowest Cost of All Proposals}}{\text{Cost of Proposal Under Evaluation}} \times 30 \text{ points} = \text{Proposer's Score for Cost Proposal}$$

NOTE: The RSA will not be liable for any expense for use of any job classification by the proposer that is not identified in the proposer's response.

D. PROPOSAL EVALUATION FORM

General Proposal Categories	Possible Points	Reviewer's Score
Description of Services to be Performed	10	
Experience with Similar Proposals	20	
Experience of Personnel Assigned	20	
IT Risk	10	
Methodology and Ability to Meet Timeline	10	
Total Technical Score	70	
Cost Proposal	30	
Total Possible Points	100	

Finalist Interviews will allow for a possible additional 10 points.

Proposers must respond to all required components of the RFP.

SECTION IV
ATTACHMENTS

Proposers must review and complete the following attached documents:

- A. State of Alabama Vendor Disclosure Statement (Pursuant to the *Code of Alabama 1975, Title 41, Chapter 16, Article 3B*)
- B. Contract Shell with language required in State of Alabama Contracts – This document does not have to be signed; however, any exceptions to the contract language must be disclosed or proposer will be deemed to be in agreement with those terms
- C. Immigration Compliance Certificate
- D. Bidder Profile
- E. Bidder References
- F. IRS Form W-9
- G. Third-Party Vendor Security Checklist (Provide only if no SOC 2 Type 2 report or HITrust Certification provided)
- H. Business Associate Agreement – This document does not have to be signed; however, any exceptions to the BAA language must be disclosed or proposer will be deemed to be in agreement with those terms.
- I. Business Associate Policy
- J. Confidentiality and Non-Disclosure Agreement



State of Alabama Disclosure Statement

Required by Article 3B of Title 41, Code of Alabama 1975

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.

STATE AGENCY/DEPARTMENT	TYPE OF GOODS/SERVICES	AMOUNT RECEIVED
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Have you or any of your partners, divisions, or any related business units previously applied and received any grants from any 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.

STATE AGENCY/DEPARTMENT	DATE GRANT AWARDED	AMOUNT OF GRANT
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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.)

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

Article 3B of Title 41, Code of Alabama 1975 requires the disclosure statement to be completed and filed with all proposals, bids, contracts, or grant proposals to the State of Alabama in excess of \$5,000.

AGREEMENT TO PROVIDE PROFESSIONAL SERVICES

THIS AGREEMENT TO PROVIDE PROFESSIONAL SERVICES, which results from RSA RFP _____, entitled Request for Proposals for _____, is made and entered into effective _____, 2023, by and between the Teachers' Retirement System of Alabama, the Employees' Retirement System of Alabama, and the Judicial Retirement Fund, collectively known as The Retirement Systems of Alabama ("RSA"), and _____, hereinafter referred to as "Contractor".

RECITALS

- A. RSA issued an RFP for _____ (describe services), and Contractor was awarded this contract based upon the terms of Contractor's Proposal dated _____, 2023 ("Contractor's Proposal").
- 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:

- Scope of Services.** Upon request of RSA, Contractor shall perform the following services for RSA ("Services"): _____.
- Consideration.** As consideration for the Services rendered pursuant to this Agreement, RSA 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 detailed invoice(s) for all work in arrears as work is completed but no more frequently than monthly. RSA shall have thirty days from receipt of an invoice from Contractor to render payment. Should RSA dispute any invoiced amount, RSA must deliver within thirty 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 the Agreement shall not exceed _____.

- Term.** This Agreement shall be for the period beginning _____, 2023, and ending _____, _____.
- 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 hereunder until notified to do so by RSA. Contractor is entitled to no compensation for work performed prior to the effective date of this Agreement.
- Independent Contractors.** Contractor acknowledges that Contractor is an independent contractor, and neither Contractor nor Contractor's employees are to be considered employees of RSA 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 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 the 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.

7. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless RSA, and their agents and employees (hereinafter collectively referred to as the “Indemnitees”) from and against all claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of, related to, or resulting from performance of the Services, provided that such claim, damage, loss or expense is caused in whole or in part by negligent acts or omissions of the Contractor, a subcontractor of Contractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder. This indemnification does not apply to the extent of the sole negligence of the Indemnitees.

8. Insurance. Contractor agrees that Contractor shall maintain or obtain (as applicable), with respect to the activities in which Contractor engages pursuant to this Agreement, general liability insurance, workers compensation insurance, automobile liability insurance, cyber security insurance, and professional liability (errors and omissions) insurance, in amounts reasonable and customary for the nature and scope of business engaged by Contractor. All insurance shall be provided by insurers licensed in Alabama, or in the state where Contractor resides, to provide the types of insurance required, and insurers must be rated “A-” or better by the A.M. Best Company. Before beginning work, Contractor shall have on file with RSA a valid Certificate of Insurance showing the types and limits of insurance carried. The foregoing coverages shall be maintained without interruption for the entire term of this Agreement. If requested by RSA, Contractor agrees to name RSA as additional insured on any applicable policies. RSA reserves the right to require additional insurance coverage other than that listed herein as RSA deems appropriate from time to time with a 30-day notice to Contractor.

Contractor must provide at least 30 days’ notice (10 days’ notice 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 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.

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 or RSA’s members. 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, 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.

Contractor acknowledges that all data relating to RSA is owned by RSA and constitutes valuable property of RSA. RSA 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, modification, 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'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's 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. In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama.

For any and all other disputes arising under the terms of this Agreement which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

Contractor acknowledges and agrees that RSA is prohibited from indemnifying Contractor for any reason. RSA does not release or waive, expressly or impliedly, RSA's right to assert sovereign immunity or any other affirmative defense right it may have under state law. RSA shall control the defense and settlement of any legal proceeding on behalf of RSA, including the selection of attorneys.

13. Proration. Any provision of this Agreement notwithstanding, in the event of failure of RSA to make payment hereunder as a result of partial unavailability, at the time such payment is due, of such sufficient revenues of the State of Alabama or RSA to make such payment (proration of appropriated funds for the State of Alabama having been declared by the governor pursuant to Section 41-4-90 of the Code of Alabama 1975), Contractor shall have the option, in addition to the other remedies of the contract, of renegotiating the Agreement (extending or changing payment terms or amounts) or terminating the Agreement.

14. Non-Appropriation of Funds. Pursuant to Section 41-4-144(c) of the Code of Alabama 1975, in the event funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Agreement may be cancelled and Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the services being delivered under the Agreement.

15. Certification Pursuant to Act No. 2006-557. Section 41-4-142 of the Code of Alabama 1975 (Act No. 2006-557) provides that every bid submitted and contract executed shall contain a certification that the supplier and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting, and remitting Alabama state and local sales, use, and/or lease tax on all taxable sales and leases into Alabama. Contractor hereby certifies it is in full compliance with Section 41-4-142 and acknowledges RSA may declare this Agreement void if the certification is false.

16. Open Records Law Compliance. Contractor acknowledges and agrees that RSA 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 may comply with these laws without violating any provision of Contractor's proposal or this final agreement.

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

18. Termination.

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

Termination for Default. RSA 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's liability will be limited to the payment for goods and/or services delivered and accepted as of the date of termination.

19. Waiver. The failure of RSA to require performance of any provision of this Agreement shall not affect RSA's right to require performance at any time thereafter, nor shall a waiver of any breach or default constitute a waiver of any subsequent breach of default nor constitute a waiver of the provision itself.

20. 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 the matters contained herein (provided, however, that Contractor's Proposal, and the attachments thereto (including without limitation Contractor's best and final offer and Business Associate Agreement, if applicable) shall be incorporated herein for all practical purposes and further provided that to the extent there exists a direct conflict between this Agreement and any of the foregoing, this Agreement shall supersede as to the conflicting provision(s)).

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

Contractor's EIN

Contractor:

Retirement Systems of Alabama

By: _____
Its: _____
Date: _____

By: David G. Bronner
Its: _____
Date: _____

Reviewed and Approved as to Form:

Approved:

RSA Legal

Kay Ivey
Governor, State of Alabama

Exhibit A
Consideration

RSA shall pay to Contractor the following fees for any such services rendered at RSA's request in accordance with the terms more specifically set forth in the Agreement:

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

(State Agency, Department of Public Entity)

The undersigned hereby 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 submit 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.

___ (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

PROPOSER PROFILE FORM

Please provide the following information about the entity submitting the proposal:

1. Entity's Full Legal Name: _____
2. Primary (HQ) Address: _____

3. Address of Office Providing Most of Services: _____

4. Phone Number: _____
5. E-mail Address: _____
6. Date Entity Established: _____
7. Ownership Structure: _____
8. State in Which Formed/Incorporated: _____
9. Entity Leadership: _____

10. Number of Total Employees: _____
11. Number of Employees Directly Involved in Tasks Related to Services: _____
12. Is Entity Currently Licensed to Operate in State of Alabama? _____
13. Use the Space Below to Provide any Additional Background You Feel is Important:

PROPOSER REFERENCES FORM

Please provide three references from entities who have received services similar to the ones being procured in this RFP from your entity within the past three years:

1. Company Name:	Contact Name:
Address:	Phone Number: E-mail:
Project Name:	Beginning Date of Project: Ending Date of Project:
Description of project size, complexity and your role in the project:	

2. Company Name:	Contact Name:
Address:	Phone Number: E-mail:
Project Name:	Beginning Date of Project: Ending Date of Project:
Description of project size, complexity and your role in the project:	

3. Company Name:	Contact Name:
Address:	Phone Number: E-mail:
Project Name:	Beginning Date of Project: Ending Date of Project:
Description of project size, complexity and your role in the project:	

Request for Taxpayer Identification Number and Certification

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

Print or type See Specific Instructions on page 2.	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; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I 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 Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number	
[] [] []	- [] [] - [] [] [] []
or	
Employer identification number	
[] [] [] []	- [] [] [] [] [] [] [] []

Part II Certification

Under penalties of perjury, I certify that:

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 on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

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? on page 2.

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?* on page 2 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 Publication 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 Part II instructions on page 3 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* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

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* on page 3 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, list first, and then circle, the name of the person or entity whose number you entered in Part I of 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 in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in 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.

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. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), 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 the chart on page 4 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. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

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 items 1, 4, or 5 below indicate 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), 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 SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. 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
14. 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* on page 2.

*Note. 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 Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system 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 contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov 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.

RSA Third Party Vendor - Security Questionnaire

Proposer Name:	Date:
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Prepared By:	Title:
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Factors:

I. Security Policy	YES/NO/NA	Comments
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A. Policy

1	Is there a corporate information security policy in place? If yes, provide as an attachment.		
2	Does the policy state what is and is not permissible as it pertains to sensitive company and customer information?		
3	Does the policy identify what is classified as sensitive company and customer information?		
4	Does the policy identify management and employee responsibilities including contractors?		
5	Does the policy identify use of employee owned devices such as laptops, smart phones, and any other form of device capable of storing data?		
6	Does the policy address change management requirements?		
7	Is there a policy on the portable media?(e.g., thumb drives, CDRW, etc.)		
8	Are personnel and contract personnel required to have national background check performed as part of your security policy? Please provide a copy of Proposers personnel policy if this is separate addressing hiring and termination procedures.		

B. Procedures

1	Are procedures in place to implement the information security policy?		
2	Are the procedures and standards evaluated to determine their level of impact to the business process?		
3	Does the project management methodology uphold the security practices? If yes, explain how.		

4	Are there policy and procedures in place to vet and audit subcontractors prior to contract acceptance where applicable?		
C. Document Handling			
1	Is there a reasonable and usable information classification policy?		
2	Does the information classification policy address all enterprise information?		
3	Is an information classification methodology in place to assist employees in identifying levels of information within the business unit?		
4	Is there an information handling matrix that explains how specific information resources are to be handled?		
II. Corporate Practices			
A. Organizational Suitability			
1	The Information Security Program has an executive level committee assigned for reporting and guidance purposes?		
2	Are employees able to perform their duties efficiently and effectively while following security procedures?		
3	Does the information security program have its' own line item in the budget?		
4	Does the security group have the authority to submit needed security policy changes throughout the enterprise?		
5	Is an annual report on the level of information security compliance issued to management?		
6	Is there more than one person responsible for the implementation of the Information Security Program?		
B. Personnel Issues			
1	Are employees able to work less than a 50 hour work week on a monthly average and complete their assignments?		
2	Are employees and project managers aware of their responsibilities for protecting information resources via written policy?		
3	Are technical employees formally trained to perform their tasks?		
4	Are contract personnel subject to confidentiality agreements?		
5	Are contract personnel subject to the same policies employees are?		

6	Is access to sensitive/confidential information by contract personnel monitored?		
7	Are national background checks performed on all proposing party employees?		
8	Is a similar screening process carried out for contractors and temporary staff?		
9	Does employment application ask if the prospective employee has ever been convicted of a crime? If so, does proposing firm employee individuals with felony convictions?		
10	Are prior employment verifications performed for initial employment?		
11	Are there any current or pending litigations against staff, former staff, or contract staff regarding corporate espionage, identity theft, or any other areas regarding the security of privacy of confidential information?		
C. Training and Education			
1	Do employees receive security related training specific to their responsibilities? If yes, please attach a sample.		
2	Are employees receiving both positive and negative feedback related to security on their performance evaluations?		
3	Is security-related training provided periodically to reflect changes and new methods?		
4	Are system administrators given additional security training specific to their jobs?		
5	Have employees undergone a HIPAA training class for those handling personal health information (PHI)?		
D. Oversight and Auditing			
1	Is Proposer at minimum AICPA SOC 1 Type 2 compliant for financial reporting. If so, please provide the SOC report(s).		
2	Is Proposer's datacenter AICPA SOC 2 Type 2 compliant? If not please comment what compliance level your datacenter facility meets.		
3	Are the security policies and procedures routinely tested?		
4	Are exceptions to security policies and procedures justified and documented?		

5	Are audit logs or other reporting mechanisms in place on all platforms?		
6	Are errors and failures tracked?		
7	When an employee is found to in non-compliance with security policies, has appropriate disciplinary action been taken?		
8	Are audits performed on an annual basis?		
9	Are unscheduled/surprise audits performed?		
10	Has someone been identified as responsible for reconciling audits?		
11	Does either an internal or external auditor independently audit Proposer's operational controls on a periodic basis?		
12	Is an independent review carried out in order to assess the effective implementation of security policies?		
13	Can the Proposer provide evidence of having gone through a recent audit of their organization's operational policies, procedures, and operating effectiveness, such as a SOC Type 2 report?		
14	Have outside audits been performed on internal operations? Please provide copies.		
15	Has Proposer experienced a security breach of corporate or customer data within the last 10 years?		
16	Is there is any concluded or pending litigation against the Proposer or an employee related to a contract engagement or security breach?		
17	Does the Proposer subcontract services that will be required to fullfil services as required in RSA's RFP.		
18	Does Proposer have a change management committee? Does it meet on regularly scheduled intervals?		
E. Application Development and Management			
1	Has an application development methodology been implemented?		
2	Are appropriate/key application users involved with developing and improving application methodology and implementation process?		
3	Is pre-production testing performed in an isolated environment?		
4	Has a promotion to production procedures been implemented?		
5	Is there a legacy application management program?		
6	Are secure coding standards implemented and are they followed?		

7	Are applications testing for security vulnerabilities prior to being released to production?		
8	Is there a dedicated security team for testing applications for vulnerabilities?		
9	Are there procedures in place for protecting source code developed by the Proposer (physically and electronically)?		
10	Is system access and security based on the concept of least possible privilege and need-to-know?		
11	Does Proposer perform source code reviews for each release?		
12	Are backdoors prevented from being placed into application source code?		
III Physical Security			
A. Physical and Facilities			
1	Is access to the building(s) controlled?		
2	Is access to computing facilities controlled more so than to the building?		
3	Is there an additional level of control for after-hours access?		
4	Is there an audit log to identify the individual and the time of access that is monitored by a group other than Information Technology?		
5	Are systems and other hardware adequately protected from theft?		
6	Are procedures in place for proper disposal of confidential information?		
7	Are proper fire suppression systems located in the facility?		
8	Are facilities more than 5 miles from a government facility or airport?		
9	Are the servers and facilities that house software documentation and programming logic located in a secure facility?		
10	Is all confidential and restricted information marked as such and stored in a secure area (room, cabinet) with access restricted to authorized personnel only?		
11	Does Proposer allow employees to work remote or in a virtual environment? Please provide documentation around controls for safeguarding computer systems and confidential data.		
B. After-Hours Review			
1	Are areas containing sensitive information properly secured?		
2	Are workstation secured after-hours?		

3	Are keys and access cards properly secured?		
4	Is confidential information properly secured?		
5	Are contract cleaning crews activities monitored?		
C. Incident Handling			
1	Has an Incident Response Team (IRT) been established?		
2	Have employees been trained as to when the IRT should be notified?		
3	Has the IRT been trained in evidence gathering and handling?		
4	Are incident reports issued to appropriate management?		
5	After an incident, are policies and procedures reviewed to determine if modification need to be implemented?		
6	Does the Proposer have a process in place to notify IT security of breaches and/or problems so that proper notification and correction can be done?		
D. Contingency Planning			
1	Has a Business Impact Analysis been conducted on all systems, applications, and platforms?		
2	Is there a documented data center Disaster Recovery Plan (DRP) in place?		
3	Are backup media password protected or encrypted?		
4	Has the data center DRP been tested within the past 12 months?		
5	Are system, application, and data backups sent to a secure off-site facility on a regular basis?		
6	Are Service Level Agreements that identify processing requirements in place with all users and service providers?		
7	Have departments, business units, groups, and other such entities implemented business continuity plans that supplement the data center DRP?		
8	Have Emergency Response Procedures (ERP) been implemented?		
9	Have ERPs been tested for effectiveness?		
IV. Business Impact Analysis, Disaster Recovery Plan			
A. General Review			

1	Backup planning includes identification of all critical data, programs, documentation, and support items required performing essential task during recovery?		
2	The BIA is reviewed and updated regularly with special attention to new technology, business changes, and migration of applications to alternative platforms?		
3	Critical period timeframes have been identified for all applications and systems?		
4	Senior management has reviewed and approved the prioritized list of critical applications?		
B. Disaster Recovery Plan (DRP)			
1	A corporate disaster recovery plan coordinator has been named and a mission statement identifying scope and responsibilities has been published?		
2	A "worst-case" scenario DRP to recover normal operations within the prescribed timeframes has been implemented and tested?		
3	Listing of current emergency telephone numbers for police, fire department, medical aid, and company officials are strategically located throughout the facility and at off-site locations?		
4	The backup site is remote from hazards that endanger the main data center?		
5	Contracts for outsourced activities have been amended to include service providers' responsibilities for DRP?		
6	Lead times for communication lines and equipment, specialized devices, power hookups, construction, firewalls, computer configurations, and LAN implementation have been factored into the DRP?		
7	At least one copy of the DRP is stored at the backup site and is updated regularly?		
8	Automatic restart and recovery procedures are in place to restore data files in the event of a processing failure?		
9	Contingency arrangements are in place for hardware, software, communications, software, staff and supplies.		
10	Customer software solutions that are being developed and/or in production are backed up as part of the Proposer's backup and recovery procedures?		

	C. Testing		
1	Backup and recovery procedures are tested at least annually?		
2	Training sessions are conducted for all relevant personnel on backup, recovery, and contingency operating procedures?		
3	Appropriate user representative have a particular role in creating and reviewing control reliability and backup provisions for relevant applications?		
4	Appropriate user representatives participate in the DRP tests?		
	Other Issues		
1	Provisions are in place to maintain the security of processing functions in the event of an emergency?		
2	Insurance coverage for loss of hardware and business impact is in place?		
	V. Technical Safeguards		
	A. Passwords		
1	Are host systems and servers as well as application servers secured with unique passwords?		
2	Are default accounts de-activated?		
3	Are temporary user accounts restricted and disabled within 4 hours?		
4	Are the password management systems forcing users to change passwords every 90 days or less?		
5	Are users of all company-provided network resources required to change the initial default password?		
6	Are the passwords complex? Contain upper case, lower case, special character or number, and at least 8 characters long.		
7	Do network and system administrators have adequate experience to implement security standards?		
8	Are reports and logs pertaining to network users reviewed and reconciled on a regular basis?		
9	Are permissions being set securely?		
10	Are administrators assigned a unique ID for access to critical systems?		
11	Are administrators using appropriate tools to perform their jobs?		
12	Does the application support multi-factor authentication?		

13	Are online systems always secured using SSL encryption?		
B. Infrastructure			
1	Is the network infrastructure audited on an annual basis?		
2	Are network vulnerability assessments conducted on an annual basis?		
3	Are changes/improvements made in a timely fashion following network vulnerability assessments?		
4	If you house or develop solutions around credit card transactions are you CISP compliant?		
C. Firewalls			
1	Are protocols allowed to initiate connections from "outside" the firewall?		
2	Has a risk analysis been conducted to determine if the protocols allowed maintain an acceptable level of risk?		
3	Has the firewall been tested to determine if outside penetration is possible?		
4	Are other products in place to augment the firewall level security?		
5	Are the firewalls maintained and monitored 24x7?		
6	Have services offered across the firewall been documented?		
7	Has a Demilitarized Zone (DMZ) or Perimeter Network been implemented?		
8	Has the firewall administrator been formally trained?		
9	Is there more than one person administering the firewall?		
10	Is the firewall for the ASP separate from the corporate firewall?		
D. Data Communications			
1	Is there a remote access procedure in place?		
2	Is there a current network diagram?		
3	Are Access Control List (ACLs) maintained on a regular basis?		
4	Is the network environment partitioned?		
5	Are the corporate routers separated from the ASP routers?		
6	Are the corporate switches separated from the ASP switches?		
7	Does the communication equipment log administrative access to the systems?		
8	Is SNMP data collected from the data communication devices?		
9	Is syslog data collected from the data communication devices?		
10	Are there standard templates for configuring routers?		

11	Are there standard templates for configuring switches?		
E. Databases			
1	Are default database passwords changed?		
2	Are database administrators trained or certified?		
3	Are database backups performed daily?		
F. Computing Platforms			
1	Are critical servers protected with appropriate access controls?		
2	Are development staff administrators on their computers used for writing source code?		
3	Is there a company image used for corporate PCs and laptops?		
4	Does the company have an asset management system to track software installed?		
5	Is there an anti-virus application installed on all PC's, laptops, and servers?		
6	Does the anti-virus application automatically update computing assets 3 times or more per day?		
7	Is there a URL filtering solution in place?		
8	Do computing assets have a corporate anti-malware application installed?		
9	Are Internet facing servers protected with host based intrusion prevention?		
10	Are employees restricted to what can be installed on their computer systems? How is this managed for remote employees if applicable?		
11	Do any of the Proposer's computer systems including storage reside on a cloud computing environment? Is it owned and operated by the Proposer? If no, please explain.		
G. Intrusion Prevention			
1	Is host based intrusion prevention software installed on all Internet facing servers?		
2	Are network based intrusion prevention systems in-line and defending?		
3	Is host based intrusion prevention software installed on all laptops?		
4	Is there a dedicated security staff monitoring 24x7 alerts from the host based intrusion prevention?		

5	Is there a dedicated security staff monitoring 24x7 alerts from the network based intrusion prevention?		
VI. Telecommunications Security			
A. Policy			
1	Is there a published policy on the use of organizational telecommunications resources?		
2	Have all employees have been made aware of the telecommunications policy?		
3	Employees authorized for Internet access are made aware of the organization's proprietary information and what they can discuss in open forums?		
4	Employees using cellular or wireless phones are briefed on the lack of privacy of conversations when using unsecured versions of technology?		
5	The organization has a published policy on prosecution of employees and outsiders if found guilty of serious premeditated criminal acts against the organization?		
6	Are corporate devices such as iPhones or Android based phones centrally managed by the Proposer to control rogue software installations and protect corporate data?		
B. Standards			
1	A threshold is established to monitor and suspend repeated unsuccessful dial-in or remote access attempts?		
2	Access to databases reachable via dial-in or VPN have access control in place to prevent unauthorized access?		
3	Financial applications available via dial-in or VPN have audit trails established to track access and transaction usage?		
4	Are audit trails reviewed and corrective action taken on a regular basis?		
5	When possible are acl security programs used to control dial-in or remote access to a specific application?		
6	Company proprietary data, stored on portable computers are secured from unauthorized access?		
7	Are corporate emails allowed to be sent from unique domains not one used by Proposer such as Gmail or Microsoft Email?		

8	Users of all company-provided communication systems are required to change the default or initial password?		
C. Practices			
1	Security, application, and network personnel actively work to ensure control inconvenience is as minimal as possible?		
2	Personnel independent of the operations staff and security administration review tamper-resistant logs and audit trails?		
3	Special procedures and audited userIDs have been established for application, system, network troubleshooting activities?		
4	Messages and transactions coming in via phone lines are serially numbered, time stamped, and logged for audit investigation and backup purposes?		
5	Employees are made aware of their responsibility to keep remote access codes secure from unauthorized access and usage?		
6	Removal of portable computers from the corporate locations must be done through normal property removal procedures?		
7	Employees are briefed on their responsibility to protect the property of the company when working away from the corporate environment?		
VII. Company Information			
A. Public Information			
1	Is the company publicly traded?		
2	Is the company bonded?		
3	Are all employees in the continental US? If not please list.		
B. Private Information			
1	Are there any planned acquisitions in the next 12 months?		
2	Are there current plans to sell the company in the next 12 months?		

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.
- J. "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.
- K. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR §164.501.
- L. "Security Incident" shall have the same meanings as the term "security incident" in 45 CFR §164.304.
- M. "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.
- N. "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.
- J. 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



PUBLIC EDUCATION EMPLOYEES' HEALTH INSURANCE PLAN

Business Associate Policy

December 8, 2015

The Public Education Employees' Health Insurance Plan ("PEEHIP") protects the privacy of personal information in accordance with applicable privacy laws. PEEHIP is required by law to take reasonable steps to ensure the privacy of our members' healthcare information in accordance with the Health Insurance Portability and Accountability Act (**HIPAA**). With the addition of the Health Information Technology for Economic and Clinical Health (**HITECH**) Act, (enacted as part of the American Recovery and Reinvestment Act of 2009), and the final set of rules included in the HIPAA Omnibus rule set in 2013, it is imperative that PEEHIP maintain reasonable oversight over protected health information that it shares with its business associates. As defined by HIPAA, a "business associate" is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity. A member of the covered entity's workforce is not a business associate. A covered health care provider, health plan, or health care clearinghouse can be a business associate of another covered entity.

Policy:

PEEHIP shall ensure that all of its business associate agreements (BAA's) meet current regulation requirements and are reviewed annually by internal staff or others. Any addendum(s) to a BAA that are required by any current or proposed HIPAA or HITECH statutes or regulations shall be entered into within the time frame mandated pursuant to such statutes or regulations.

As a continued or future business associate of PEEHIP, business associates must provide adequate documentation stating they are in compliance with current HIPAA Security and Privacy rules. Documentation must consist of, at a minimum, one of the following:

- **External HIPAA Attestation Report**

A HIPAA attestation report must be conducted by a credible third party audit firm specializing in HIPAA Privacy and Security audits within the last year. Assessments must continue to be scheduled on a regular yearly basis covering at minimum the last 12 consecutive months of the previous year and not a point in time. The assessment must provide a qualified opinion of whether the business associate meets current HIPAA and HITECH Security and Privacy requirements based on an agreed-upon set of procedures (AUP). Report must be signed by a certified CISA, CISSP, or HCISPP auditor.

- **Service Organization Control Reporting**

Service Organization Control reports are required by business associates based upon service(s) performed on behalf of PEEHIP. Business associates classified as having a material impact on PEEHIP's financial statement will be required to obtain a **SOC 1 Type 2** report as deemed necessary by PEEHIP. Organizations which provide services to PEEHIP with direct access to public health information (PHI) will be required to complete a **SOC 2 Type 2** relevant to the service(s) being performed by the business associate. A **SOC 2 Type 2** report is required for each trust service principle that is relevant to the outsourced service being performed by the business associate. In most cases PEEHIP will require each business associate to audit their controls against all five trust services principles including: **security, privacy, availability, confidentiality,**

and **processing integrity**. The SOC 2 Type 2 report must be performed directly on the business associate covering the last 12 consecutive months.

If the business associate utilizes or will utilize a managed data service provider or “subservice” such as Amazon or Microsoft Azure Cloud Services, the business associate will be required to produce a separate **SOC 2 Type 2** report based upon contracted service type(s). This report must also cover the last 12 consecutive months without gap.

- Note: For “subservice” providers, a **SOC 2 Type 2** report must include at minimum the following trust services principles: **security, availability, and confidentiality**. If the “subservice” provider also performs data processing functions for the business associate, the remaining trust service principles, **processing integrity** and **privacy**, will be required as part of the **SOC 2 Type 2** report.
- **HITRUST Certification**
The HITRUST Common Security Framework (CSF) is a comprehensive and certifiable security framework used by healthcare organizations and their business associates to efficiently approach regulatory compliance and risk management. A current HITRUST certification issued within the last year will be accepted by PEEHIP to meet compliance with this policy.

Policy Enforcement:

If any current or future business associate plans to obtain one of the reports or certifications noted above but currently does not possess it, PEEHIP will accept the following:

- For current business associates, a proof of engagement letter stating they will complete and provide one of the acceptable reports or certifications to PEEHIP within 12 months.
- For new business associates, a proof of engagement letter stating they will complete and provide one of the acceptable reports or certifications to PEEHIP within 90 days of executing the contract.

Initial reports must incorporate more than 90 days’ worth of data for testing, while subsequent reports must include the last 12 months of controls testing without gap. If a current business associate fails to comply with this Policy, PEEHIP shall have the right, at PEEHIP’s sole discretion, to request one of the above defined audits to be completed and results obtained within a period of time defined by PEEHIP from the date such business associate receives written notice of noncompliance from PEEHIP. **In such event, the audited party will be solely responsible for all expenses incurred by the parties during the audit, including without limitation, all payment due to the audit firm. Should such business associate not agree to an audit within 90 days of receiving written notice of noncompliance from PEEHIP, PEEHIP shall have the right, in its sole discretion, to terminate its relationship with the business associate and/or to impose any such other penalties as PEEHIP may have the right to impose pursuant to the applicable contract and governing law.**

**RSA CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT
FOR THIRD-PARTY CONTRACTORS**

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is entered into effective between the Teachers’ Retirement System of Alabama, the Employees’ Retirement System of Alabama, and the Judicial Retirement Fund, collectively referred to as The Retirement Systems of Alabama (“RSA”) and _____ (“Contractor”), effective _____, 2023. The parties acknowledge and agree as follows:

1. PURPOSE. Contractor plans to provide RSA with the following services: _____ (“Services”). During the administration of the Services, RSA will provide to Contractor data and information that RSA deems to be confidential and proprietary information belonging to RSA and/or its members (“Confidential Information”). RSA agrees to disclose its Confidential Information to Contractor, subject to the terms and conditions set forth in this Agreement.

2. TERM. The term of this Agreement shall be for the greater of: (A) the term of the underlying services agreement between the parties plus two years, or (B) five years.

3. CONFIDENTIAL INFORMATION USE AND EXCEPTIONS. Confidential Information disclosed by RSA to Contractor shall be used by Contractor only as permitted by this Agreement and only to fulfill its obligations under the agreement between the parties governing the Services. Confidential Information shall not include information: (i) generally available to the public prior to or during the time of the services through authorized disclosure; or (ii) obtained from a third party who is under no obligation not to disclose such information; or (iii) independently developed without reference to Confidential Information.

4. ELECTRONIC TRANSMISSION. In the event Contractor receives any Confidential Information via electronic means such as FTP transmission, the Contractor shall use reasonable physical and software-based security measures, commonly used in the electronic data interchange field, to protect Confidential Information sent or received.

5. PERMITTED USES. Contractor agrees that it:

(a) shall not use (deemed to include, but not be limited to, using, exploiting, duplicating, recreating, modifying, decompiling, disassembling, reverse engineering, translating, creating derivative works, adding to a party’s database, or disclosing Confidential Information to another person or permitting any other person to do so) Confidential Information except for purposes of the Services;

(b) shall comply with all applicable laws and regulations governing the use and disclosure of Confidential Information;

(c) shall use at least the same degree of care to protect the Confidential Information as is used with its own proprietary and confidential information, which shall be no less than a commercially reasonable degree of care;

(d) may release Confidential Information in response to a subpoena or other legal process to disclose Confidential Information, only after giving RSA reasonable notice of such disclosure to the extent legally permissible; and

(e) notwithstanding any other provision of this Agreement, may release Confidential Information as required by any applicable law.

6. ACCESS TO CONFIDENTIAL INFORMATION. Contractor agrees that only individuals employed by Contractor who have a need to know Confidential Information will have access to Confidential Information. Further, all such persons will be made aware of this Agreement and will be obliged to comply with the terms herein. Contractor also agrees that it will not disclose Confidential Information to a person outside of the entity (for example, consultants or subcontractors) unless (a) the disclosure is necessary for the party to fulfill such party’s obligations under the agreement between the parties governing the Services, and (b) the third party also executes an NDA or is otherwise bound to maintain confidentiality in a signed writing.

7. **OWNERSHIP OF CONFIDENTIAL INFORMATION.** Contractor agrees that all Confidential Information shall remain the property of RSA, and that nothing contained herein shall be construed as granting or implying any transfer of rights to Contractor in the Confidential Information, or any patents, or other intellectual property rights protecting or relating to the Confidential Information.

8. **CONCLUSION OF SERVICES.** At the conclusion of the Services, Contractor shall either relinquish to RSA or destroy to the extent reasonably practicable (with such destruction to be verified upon request) all Confidential Information. Contractor may retain an archival copy of Confidential Information in accordance with the party's policies and procedures for retention and records backup, provided that such party continues to treat the Confidential Information as being bound under this Agreement.

9. **NOTICE OF BREACH.** If, at any time it is discovered by the Contractor that this Agreement has been breached by the Contractor or its agents or affiliates, then the Contractor shall promptly notify RSA in writing that a breach has occurred.

10. **REMEDY FOR BREACH.** Unauthorized use or disclosure of Confidential Information is a material breach of this Agreement resulting in irreparable harm to the RSA for which the payment of money damages may be inadequate. Accordingly, RSA may, in addition to any other remedies which may otherwise be available to it by law, obtain an injunction from any court having jurisdiction over the matter and parties to restrain any further violation.

11. **INDEMNIFICATION.** Contractor agrees to indemnify and hold harmless RSA with respect to any claims, expenses and damages caused by Contractor's breach of this Agreement or failure to perform any of the representations or warranties herein.

12. **SURVIVAL.** Notwithstanding any other provision herein to the contrary, the requirement to treat Confidential Information as confidential under this Agreement shall remain in full force and effect so long as any information remains commercially valuable, confidential, proprietary and/or trade secret.

13. **ASSIGNMENT.** Neither this Agreement nor either party's rights or obligations hereunder may be assigned without prior written approval of the other party.

14. **ALABAMA DATA BREACH NOTIFICATION ACT OF 2018.** Contractor agrees that, in the event Contractor receives sensitive personally identifying information as defined in Ala. Code (1975) §8-38-2(6), Contractor shall comply with Alabama Data Breach Notification Act of 2018, as codified in Ala. Code (1975) §8-38-1, et al.

15. **GENERAL.** (a) This Agreement is the entire understanding between the parties as to the subject matter hereof. (b) This Agreement binds the parties and their respective successors, assigns, agents, employers, subsidiaries and affiliates. (c) No modification to this Agreement shall be binding upon the parties unless evidenced in writing signed by the party against whom enforcement is sought. (d) The alleged invalidity of any term shall not affect the validity of any of the other terms. (e) The alleged inapplicability of any provision as to any certain person or circumstance shall not invalidate the applicability as to any other person or circumstance. (f) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama.

IN WITNESS WHEREOF, each of the parties has executed this Agreement, to be effective as of the date first written above.

Retirement Systems of Alabama
By: _____
Its: _____

Contractor Name: _____
By: _____
Its: _____