



SCHOLARSHARE INVESTMENT BOARD

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Julio Martinez

ScholarShare Investment Board

Request for Proposals No. SIB 11-16 529 Industry Consulting Services Notice to Prospective Bidders

January 9, 2017

You are invited to review and respond to this Request for Proposals No. SIB 11-16 (RFP) for 529 industry consulting services.

In submitting your proposal, you must comply with all instructions in the RFP. The RFP includes the Sample Standard Agreement the winning bidder will be expected to execute. Note that all agreements entered into with the State of California will include by reference General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded online at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>. The General Terms and Conditions are not negotiable. If you do not have internet access, a hard copy of the RFP can be provided upon request by contacting the person listed below.

All responses to this RFP must be submitted in hard copy and received by SIB no later than **4:00 p.m. Pacific Time** on **February 17, 2017**. Email or faxed submissions will not be accepted. All proposals must be mailed or delivered to:

ScholarShare Investment Board
915 Capitol Mall, Room 105
Sacramento, California 95814
Attention: Brian Gorban

In the opinion of the ScholarShare Investment Board, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, contact Brian Gorban by email at scholarshare@treasurer.ca.gov. Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

The State of California will not contract or otherwise do business with publicly-held U.S. expatriate corporations without a compelling public interest. This policy is designed to ensure that companies with which the State of California does business meet threshold standards of corporate accountability.

On behalf of the ScholarShare Investment Board, thank you for your interest.

Julio Martinez
Executive Director

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- Attachment 3 - Cost Proposal Work Sheet
- Attachment 4 - Bidder References
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Sample Standard Agreement

STD 213 - Standard Agreement
Exhibit A - Scope of Work
Exhibit B - Budget Detail and Payment Provisions
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A) Purpose and Description of Services – Scope of Work

Scope Overview

The ScholarShare Investment Board (SIB or Board) is the administrator of California's 529 college savings plan, and the State agency responsible for the effective and efficient administration of the Golden State ScholarShare College Savings Trust (Trust). As of November 30, 2016, there were over 280,000 open ScholarShare accounts and over \$6.9 billion in assets under management.

A qualified 529 industry consultant is needed to provide SIB with ongoing expertise on the 529 industry, including trends, marketing and distribution strategies, 529 plan comparison analyses, assistance with writing request for proposals, and analysis of the ScholarShare program manager's marketing plans and performance. More information about ScholarShare can be found online at www.scholarshare.com.

Sample Standard Agreement

This Request for Proposals No. SIB 11-16 (RFP) includes a Sample Standard Agreement (Sample Agreement) for each Bidder's review. The Sample Agreement contains the language that SIB expects to utilize for this contract. The term of the agreement entered into pursuant to this RFP, if any, will be two years with an option at the State's sole discretion to extend for up to one year.

Background

The California Legislature authorized creation of the Trust in 1997 (Education Code Sections 69980-69994 (Act)), intending it to be a "qualified tuition program" as defined in Section 529 (Section 529) of the Internal Revenue Code of 1986, as amended (Code). The Act authorizes Trust investments for a specific beneficiary's advance savings for qualified higher education expenses in a postsecondary education institution. The Board was established to administer the state's qualified tuition programs. In addition, the Board administers the Governor's Scholarship Programs (GSP), which was established in 2000 and rewarded public school students who demonstrated high academic achievement with scholarships.

SIB is the state entity responsible for effective and efficient administration of the Trust. The seven-member SIB meets four to five times annually, with additional meetings if deemed necessary. Meetings are generally held in Sacramento, California at the State Treasurer's Office, 915 Capitol Mall, but may be held at other locations.

Scope of Work

The Scope of Work is found in Exhibit A of the Sample Agreement. The contract will be subject to the approval of SIB and the Department of General Services (DGS). In no event shall services be performed prior to the approval of an agreement, if any, by the DGS Office of Legal Services.

The following scope of work details SIB's expectations for a 529 industry consultant. These 529 industry consulting services include the following:

- Provide general strategic consulting advice for the ScholarShare program. Make recommendations on program design and structure. Provide information and insight on the 529 industry.
- Assist SIB by providing 529 plan trends and comparisons. Advise SIB of new or different strategies that could be employed to increase participation in ScholarShare. Offer opinion or strategy on Plan name, branding, distribution, and marketing.

- Provide analysis of program manager's performance, particularly in marketing and administrative areas using monthly, quarterly and annual data. Assist in evaluation of marketing and administrative benchmarks.
- Review disclosure language and keep abreast of regulatory issues on SIB's behalf.
- Participate in the development of request for proposals and the subsequent selection process.
- Assist with contract negotiations if selection of a new program manager(s) is made or changes are made to existing relationships.
- Work with SIB's consultants and program manager(s) as needed.
- Provide second opinion (SIB has a primary investment consultant) on investments and investment performance if Bidder, or a subcontractor, is qualified.
- Attend all SIB meetings unless notified otherwise by the SIB or its designee. It is anticipated that SIB will meet approximately four times per year. Also, attend other meetings pertaining to the 529 industry (Securities and Exchange Commission or others) with or on behalf of SIB as needed.
- Be available to consult with SIB members and the Executive Director from 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday.
- Respond to the need for telephone consultation within a 24-hour period and be available for meetings with SIB with no greater than 10 days' notice.

B) Minimum Qualifications for Bidders

Address the two minimum qualifications stated below by completing Attachment 5. Failure to meet these minimum qualifications will cause your proposal to be considered nonresponsive and the proposal will be rejected.

- Bidder must have a minimum of three years experience in providing 529 industry consulting services to or on behalf of public or private entities.
- Bidder must hold and maintain all licenses and registrations required by applicable federal and state laws for businesses offering investment and municipal advisory services. All such licenses and registrations must be current and in good standing.

C) Proposal Requirements and Information

1) Schedule (Key Action Dates)

All Bidders are hereby advised of the following schedule and will be expected to adhere to the required dates and times (all times listed are Pacific Time (PT)).

Date	Action
January 9, 2017	RFP available to Prospective Bidders
January 17, 2017, 12:00 p.m. PT	Written Question Submittal Deadline
January 24, 2017	Answers to Written Questions Distributed
February 17, 2017, 4:00 p.m. PT	Deadline for Proposal Submission
February 21-24, 2017	Evaluation of Proposals
February 27-28, 2017	Oral Interviews (if applicable)
March 2, 2017	Notice of Intent to Award
March 9, 2017	Proposed Award Date
April 17, 2017	Commencement of Contract (pending DGS approval)

SIB reserves the right to change the above dates and times, and, if so, potential Bidders will be notified via email and SIB will issue an addendum. SIB also reserves the right not to award an Agreement at all.

2) Questions and Answers

In the opinion of SIB, this RFP is complete and needs no further explanation. However, if you have questions, or should you need any clarifying information, contact Brian Gorban by phone at (916) 651-6380 or by e-mail at scholarshare@treasurer.ca.gov. Bidders may submit written questions, if any, no later than by 12:00 p.m. PT on January 17, 2017 by email to scholarshare@treasurer.ca.gov or by fax to (916) 589-2835.

A copy of the responses to all written questions received by 12:00 p.m. PT on January 17, 2017 will be provided to Bidders via email, and available online at www.treasurer.ca.gov/scholarshare by close of business on January 24, 2017.

3) Submission of Proposal

- a) Proposals should provide straightforward and concise descriptions of the Bidder's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies, or misstatements may be cause for rejection of a proposal.
- b) In preparing proposals, Bidders should:
 - Use standard 8½" x 11" white paper with a minimum type size of 12 points. Consecutively number all pages in the Bidder's response (including attachments and/or appendices).
 - Include a cover letter stating:
 - The name, address, email, phone and fax numbers of the principal contact responsible for the oversight of the agreement. Indicate the availability of this person for meetings with SIB staff.
 - The name, address, email, phone and fax numbers of the project representative who will be available to SIB and its staff on a day-to-day basis during the term of the agreement.

- o The name, address, email, phone, fax number and name of a key contact at each partner, if a consortium, and subcontractor and what the aforementioned would be responsible for under the agreement.
 - o That the Bidder accepts the terms of the Sample Agreement attached to this RFP. Please note that the General Terms and Conditions in Exhibit C are not negotiable.
- c) All proposals must be submitted in hard copy under sealed cover and received by SIB by 4:00 pm PT on February 17, 2017 unless SIB provides notice that the date has been changed. **Proposals received after this date and time will not be considered.** Proposals received by fax or email will be rejected.
- d) A minimum of one (1) original and five (5) copies of the proposal must be submitted.
- e) The original proposal must be marked "**ORIGINAL COPY**". All documents contained in the original proposal package must have **original signatures** and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.
- f) The proposal envelopes must be plainly marked with the RFP number and title, your firm name and address, and must be marked with "**DO NOT OPEN**", as shown in the following example:

Request for Proposals No. SIB 11-16
529 Industry Consulting Services
Firm Name
Firm Address
Contact Person and Phone Number
"DO NOT OPEN"

If the proposal is made under a fictitious name or business title, the actual legal name of Bidder must be provided.

Proposals not submitted under sealed cover and marked as indicated may be rejected.

- g) Proposals that omit the Minimum Qualification Certification that is included in Attachment 5 of Section H will not be considered. Proposals shall include each of the attachments (if applicable) on the Required Attachment Check List in Section H. Proposals that do not comply with the requirements of the RFP shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements and will be rejected.
- h) One (1) original and five (5) copies of the proposal shall be mailed or delivered to the following address:

ScholarShare Investment Board
915 Capitol Mall, Room 105
Sacramento, California 95814
Attention: Brian Gorban
Phone: (916) 651-6380

- i) Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.

- j) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. SIB may reject any or all proposals and may waive an immaterial deviation in a proposal. SIB's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the Bidder from full compliance with all requirements if awarded the agreement.
- k) The Bidder is entirely responsible for the costs of developing proposals and costs incurred in anticipation of award of the Agreement. Such costs shall not be charged to SIB.
- l) An individual who is authorized to bind the proposing firm contractually shall sign Required Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- m) A Bidder may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Schedule (Key Action Dates) in Section C(1). The submission of a new proposal must comply with the requirements in this section. Proposal modifications offered in any other manner, oral or written, will not be considered.
- n) A Bidder may withdraw its proposal by submitting a written withdrawal request to SIB, signed by the Bidder or an authorized agent in accordance with Section C(3)(m). A Bidder may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to the proposal submission deadline.
- o) SIB may modify this RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all interested Bidders providing contact information, including an email address and phone number. The contact information must be provided to Brian Gorban at scholarshare@treasurer.ca.gov by January 24, 2017. SIB will also provide updates by email to all Bidders who have expressed interest and provided contact information.
- p) Upon announcement and release of this RFP and until selection of the winning Bidder (and notice of intent to award the Agreement), Bidders (or potential Bidders) are not permitted to communicate with SIB staff or its consultants with respect to the RFP except in connection with the process and procedures related to the RFP. Any communication must be directed to Brian Gorban at scholarshare@treasurer.ca.gov.
- q) SIB reserves the right to reject all proposals. SIB is not required to award an agreement.
- r) Bidders are cautioned to not rely on SIB to discover and report any defects or errors in submitted documents. Before submitting a response to this RFP, Bidders should carefully review the response, correct all errors and confirm compliance with the RFP requirements.
- s) Where applicable, Bidder should carefully examine work sites and specifications. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.
- t) More than one proposal from any firm, organization, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any Bidder has submitted more than one proposal for the work contemplated herein will cause the rejection of all proposals submitted by that Bidder. If there is reason for believing that collusion exists among the Bidders, none of the participants in such collusion will be considered in this or future procurements.
- u) No oral understanding or agreement shall be binding on either party.

4) Evaluation Process

- a) All proposals will be reviewed by an evaluation committee. The initial review of the proposals will confirm that all information has been submitted in conformity with the requirements of this RFP. The absence of required information will cause a proposal to be deemed nonresponsive and may result in the proposal's disqualification. Responsive proposals will then be scored according to criteria herein. The scored categories and the corresponding weighting of each scored category is as follows:

Scored Category	Weighting
Bidder's Background Information	20 points
Experience/Expertise in 529 Consulting	35 points
Cost	30 points
Interview	15 points
Total Possible Points	100 points

The evaluation committee will allot points for each component of the RFP, up to 100 points. The scoring will be done in two phases. The first phase will be worth 85 points, with all items being scored with the exception of the Interview portion. In this first phase a minimum score of 70 out of 85 is required to be eligible for the second, interview phase. The top three (3) highest scoring Bidders after the first phase is completed will be contacted for an interview. All the interviews will be scored based on the Bidders' responses to the same set of questions that will be asked of all Bidders eligible for the second, interview phase. The Bidder's second phase score will be added to the Bidder's first phase score, and the Bidder earning the highest total score will be announced as the winner. SIB reserves the right to not conduct interviews if deemed unnecessary to the selection of a 529 industry consultant (e.g. only one (1) Bidder scored a minimum of 70 points in the first phase).

- b) The following point scale will be used to score the responses to the questions presented under each of the scored category except with regards to costs.

Percent of Maximum Score Allotted to Category

- 100% - Excellent response backed by demonstrated ability.
- 90% - Very good response backed by demonstrated ability.
- 80%- Good response backed by demonstrated ability.
- 70%- Fair response backed by demonstrated ability.
- 60%- Poor response.
- 0% - Bidder does not demonstrate ability.

- c) Proposals that contain false or misleading statements, or that provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of SIB, such information was intended to mislead SIB in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, it will be the basis for rejection of the proposal.
- d) The contract will be awarded to the responsible and responsive Bidder with the highest total score.
- e) SIB is not required to award an Agreement.

5) Award and Protest

- a) Notice of the proposed award shall be posted in a public place at the State Treasurer's Office, 915 Capitol Mall, Sacramento, CA 95814, for five (5) working days prior to awarding the agreement. The notice will be posted at the entrance to Room 105 and online at www.treasurer.ca.gov/scholarshare.
- b) If any Bidder, prior to the award of agreement, files a protest with SIB and the DGS Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds provided under Public Contract Code section 10345(b), the agreement shall not be awarded until either the protest has been withdrawn or DGS has decided the matter. It is suggested that any protest be submitted by certified or registered mail.
- c) Within five (5) days after filing the initial protest, the protesting Bidder shall file with SIB and the DGS Office of Legal Services a detailed written statement specifying the grounds for the protest. It is suggested that this detailed written statement be submitted by certified or registered mail.

6) Disposition of Proposals

- a) Upon proposal opening, all documents submitted in response to this RFP will become the property of SIB and the State, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public.
- b) Proposal packages may be returned only at the Bidder's expense, unless such expense is waived by SIB.

7) Agreement Execution and Performance

- a) Performance shall start not later than 30 days, or on the express date set by the awarding agency and the Contractor, after all approvals have been obtained and the agreement is fully executed. If the Contractor fails to commence work at the agreed upon time, the awarding agency, upon five (5) days written notice to the Contractor, reserves the right to terminate the agreement. In addition, the Contractor shall be liable to the State for the difference between Contractor's proposal price and the actual cost of performing work by another contractor.
- b) All performance under the agreement shall be completed on or before the termination date of the agreement.
- c) The General Terms and Conditions included as Exhibit C to the Sample Agreement are not negotiable. Exhibit C (currently GTC-610) can be found online at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.
- d) Upon execution of the agreement, Contractor must complete and submit to SIB the Payee Data Record (STD. 204) to determine if the Contractor is subject to State income tax withholding pursuant to California Revenue and Taxation Code Sections 18662 and 26131. This form is available as Attachment 6 in Section H and can be found online at <http://www.dgs.ca.gov/osp/STDFormsDirectory.aspx> (click "Forms Search," click "California State Forms Directory," enter "204" in "Search by Form Number" field under ""Forms Search" tab, and click link for STD. 204 - Payee Data Record). No payment shall be made unless a completed STD. 204 has been returned to SIB.

- e) The Contractor must sign and submit to SIB the Contractor Certification Clauses (CCC-307), which is incorporated by reference to Exhibit C to the agreement. The Contractor Certification Clauses are included as Attachment 7 in Section H and can be found online at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

D) Qualifications and Experience

Questions in this Section D are intended to demonstrate the Bidder's qualifications. Points will be awarded for the Bidder's response(s) to each question. The allocation of points is defined in Section C 4) of this RFP entitled "Evaluation Process." Questions should be answered for each relevant partner or subcontractor to the extent applicable if a Bidder is a consortium or is using subcontractors. In preparing proposals, the Bidder must list each question and then provide the Bidder's response to that question in the same order listed in this RFP.

1) Required Information (Zero (0) points)

The Board may reject a proposal due to any disclosure or conflict of interest (potential or actual) that is material in the sole opinion of the Board.

- a) State the name, address, telephone and fax numbers, and e-mail addresses of Bidder's firm and the person who will have ultimate responsibility for this contract.
- b) Disclose any legal or disciplinary event that is material to the Board's evaluation of the Bidder or the integrity of Bidder's management or advisory personnel by either: (1) identifying the specific type of event and specifically referring to the relevant portions of the Bidder's most recent Forms MA or MA-I (and, if doing so, providing detailed information specifying where the Board may electronically access such forms), or (2) providing a writing that fully and fairly discloses the information required to be disclosed under MSRB Rule G-42(c)(ii) and (b).
- c) Advise if any partner, officer, investment officer, portfolio manager, research analyst, or trader of the Bidder's firm has been convicted or pleaded no contest in a case stemming from a felony indictment. Any such conviction or plea must be disclosed and must be accompanied by a full explanation of the circumstances surrounding it.
- d) Advise if the Bidder is or was a defendant in litigation relating to any services which it proposes to provide to the SIB. Any final settlement, administrative decision, or judgment made in connection with this litigation must be disclosed and must be accompanied by a full explanation of the circumstances surrounding it.
- e) Advise if the Bidder, any partner, related company (parent, subsidiary, sister), affiliate or joint venture, or any owner, officer, director, principal, or management level employee of the Bidder been involved in any enforcement action by the Securities and Exchange Commission or any other governmental regulatory agency or been named a defendant in litigation where there was an allegation of violation of fiduciary responsibility. If yes, explain in detail.
- g) Advise if the Bidder has ever been terminated for cause from any contract. If the answer is yes, cite the background of the contract, reason for the termination, and what the Bidder has done to change operations or personnel to preclude the circumstances regarding the termination from re-occurring.
- h) Disclose any business relationships, which may be construed to be potential or actual conflicts of interest. The contractor will have a continuing requirement to disclose any business relationships that may be construed to be a potential or actual conflict. The disclosure must be sufficiently detailed to inform the Board of the nature, implications and

potential consequences of each conflict and must include an explanation of how the Bidder addresses, or intends to manage or mitigate, each conflict.

2) Bidder’s Background and Personnel Information (Maximum of twenty (20) points)

- a) Provide an overview of the Bidder’s firm including mission statement and vision statement, number of years experience providing consultation, and what services Bidder’s firm will bring to this contract.
- b) Provide a brief history of Bidder’s firm. Describe the organizational structure and explain how this structure will be used to perform the requirements of this contract. Explain the advantages of this structure.
- c) Provide professional resumes of each of the individuals who will be assigned to this account and the professional resumes of all individuals who will be responsible for reviewing or otherwise influencing the work of individuals assigned to this account.
- d) Complete the following table for professionals who will be responsible for providing the consulting activities to be performed pursuant to this contract.

Name & Location	Title & Responsibility	Total Years Experience	Years with Firm	Most Advanced Degree

- e) Indicate who will have ultimate responsibility for this contract. Indicate the availability of this person for live or telephone meetings with the SIB or its designee. Describe the Bidder’s backup procedures if the primary person assigned to this account leaves the firm, or is otherwise unavailable.

3) Experience / Expertise in 529 Consulting (Maximum of thirty-five (35) points)

- a) Describe the Bidder’s experience in advising boards on 529 industry matters. Include the names of the boards, the size of the plans (number of accounts), types of plans (savings or prepaid), the number of years that the Bidder has provided this service, the number of agencies or boards to which the Bidder is currently providing 529-related advice and the approximate dollar value of the portfolios for which consultative services are provided. Explain how this experience will benefit the SIB.
- b) Describe the Bidder’s understanding of the objectives of the ScholarShare program. What does Bidder see as the biggest challenge for California and how would the Bidder address it? What special expertise does Bidder bring to advising SIB?
- c) Explain your views on how the 529 marketplace is evolving and what programs need to be considered to remain competitive.
- d) Affirm the Bidder’s ability to perform every item in Section A, Scope of Work. List any items the Bidder would not be able to provide and if Bidder would subcontract these. If Bidder has been involved with the issuance of a request for proposals for a 529 program manager, please describe the experience in detail.

- e) Provide at least two recent examples within the past three years of client research or reports prepared by Bidder regarding 529 industry strategies or analysis.
- f) Discuss any changes/material refinements in Bidder's advising philosophy which have occurred within the past three years. What prompted the changes/refinements?
- g) Provide the name, address, telephone number, contact name and title for five (5) firms to serve as references for Bidder, using the format in Attachment 4. Provide three (3) references for any subcontractors you plan to use. Identify the individuals at Bidder's firm who were responsible for providing consulting services to these agencies. Submission of Attachment 4 is mandatory. Proposals that fail to submit Attachment 4 shall be considered non-responsive and rejected.

4) Cost Proposal (Maximum of thirty (30) points)

Use Attachment 3 (Cost Proposal) to complete your cost proposal for each year of the contract term (including the potential extension year), which will be a full and final estimate. **SIB expects the total amount of the contract not to exceed \$375,000 for this potential three-year contract.** Review this section and the calculations in your Cost Proposal carefully. Mathematical errors may be corrected by SIB. **Do not make any modifications to the Cost Proposal form, including the 200 total annual hours and the \$10,000 total annual travel costs.** The cost proposal shall:

- Follow the template outlined in Attachment 3 – Cost Proposal, completing all of the cost proposal forms listed below:
 - Cost Proposal Detail (Year One)
 - Cost Proposal Detail (Year Two)
 - Cost Proposal Detail (Year Three – Potential Extension Year)
- **Assume a total of 200 hours of staff work (including subcontractor staff work) per year.** Estimate the number of hours out of the 200 each level of staff who will be assigned to the contract will work. Note that the total number of hours for identified staff must equal 200 per year.
- Identify and include an hourly rate for each level of staff who will be assigned to work on the services outlined in this RFP. The hourly rates identified will be utilized in the contract awarded to the winning bidder for reimbursement for services performed. **All-inclusive flat fees and/or retainer fees will not be accepted for consideration.**
- **Travel costs are capped at \$10,000 per year. This amount may not be modified.** The rates for travel costs shall be set in accordance with the California Department of Human Resources (CalHR) rates for comparable classes and no travel outside the State of California shall be reimbursed unless prior written authorization is obtained from SIB.

Proposals submitted with a cost proposal that fails to meet any of the specified requirements outlined above, or in a form other than as provided for in Attachment 3, will be considered non-responsive and rejected.

The following formula shall be used for the award of cost points:

Lowest cost proposal, based on the Total Cost for Three Year Contract Term (two years and a potential one-year extension) from Attachment 3, is awarded the maximum cost points. Other proposals are awarded cost points based on the following calculation:

$$(\text{Lowest Bidder's cost proposal} / \text{Other Bidder's cost proposal}) = (\text{factor})$$

$$\text{Cost points for Other Bidder} = (\text{factor}) \times \text{maximum cost points}$$

EXAMPLE: A maximum of 30 points is available.

Lowest Bidder's cost proposal = \$75,000

Other Bidder's cost proposal = \$100,000

$$(\text{Lowest Bidder's cost proposal} / \text{Other Bidder's cost proposal}) = \$75,000 / \$100,000 = \frac{3}{4}$$

$$\text{Cost points awarded to Other Bidder} = \frac{3}{4} \times 30 \text{ maximum points} = 22.5 \text{ cost points}$$

5) Interview (Maximum of fifteen (15) points)

Answers provided to questions during the interview will be the basis for awarding up to 15 points. Each interviewee will receive the same set of questions. Only the top three (3) highest scoring Bidders, scoring a minimum of 70 points in the first phase of the evaluation process, will be interviewed. See Section C(4) of this RFP for further information on the Interview process.

E) California Disabled Veteran Business Enterprise

The Disabled Veteran Business Enterprise (DVBE) participation requirement and DVBE incentive for this RFP have been waived.

F) Preference Programs

1) Small Business or Microbusiness Preference (if applicable)

(If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

A five percent (5%) preference will be applied to certified small businesses submitting proposals for this RFP. To obtain the preference, Proposer must either be certified as a small business and submit a copy of their certification approval letter from DGS / Office of Small Business and DVBE Services (OSDS) or submit a complete application for certification to DGS / OSDS by 5:00 p.m. PT on the proposal due date. However, the proposed winning Proposer must be a certified small business at the time of contract award. The 5% preference is used only for computation purposes to determine the winning Proposer and does not alter the amounts of the resulting contract.

Once each proposal has been scored, if the highest scored proposal is from a non-certified small business, then 5% of the highest scoring proposal is added to the total "earned" points for each proposal submitted by a certified small business. These final numbers, with the 5% included, are then used to determine the highest scoring proposal.

Questions regarding the small business certification or preference approval should be directed to the OSDS at (916) 375-4940 or can be found online at <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>.

2) Non-Small Business Preference (if applicable)

(If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

A five percent (5%) bid preference is available to a non-small business claiming twenty-five percent (25%) California certified small business subcontractor participation. If claiming the non-small business subcontractor preference, the bid response must include a list of the small business(es) with which you commit to subcontract in an amount of at least 25% of the net bid price with one or more California certified small businesses. Each listed certified small business must perform a "commercially useful function" in the performance of the contract as defined in Government Code Section 14837 (d)(4).

The required list of California certified small business subcontractors must be attached to the bid response and must include the following: 1) subcontractor name, 2) address, 3) phone number, 4) a description of the work to be performed and/or products supplied, 5) and the dollar amount or percentage of the net bid price (as specified in the solicitation) per subcontractor.

Bidders claiming the 5% preference must commit to subcontract for at least 25% of the net bid price with one or more California certified small businesses. Completed certification applications and required support documents must be submitted to the OSDS no later than 5:00 p.m. PT on the proposal due date, and the OSDS must be able to approve the application as submitted. Questions regarding certification should be directed to the OSDS at (916) 375-4940 or can be found online at <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>.

The preference to a non-small business firm that commits to small business or microbusiness subcontractor participation of 25% of its net bid price shall be 5% of the highest responsive, responsible firm's total score. A non-small business, which qualifies for this preference, may not take an award away from a certified small business.

3) Target Area Contract Preference Act (TACPA) (if applicable)

(If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

The TACPA preference will be granted for this procurement. Proposers wishing to take advantage of the TACPA preference will need to review the following website and submit the appropriate response with the proposal:

<http://www.dgs.ca.gov/pd/Programs/DisputeResolution.aspx>

Proposers wishing to take advantage of the TACPA preference are required to submit the following applications/forms:

- TACPA (Std. 830)
- Bidder's Summary of Contract Activities and Labor Hours (DGS/PD 525)
- Manufacturer Summary of Contract Activities and Labor Hours (DGS/PD 526).

G) Darfur Contracting Act Compliance Certification

Effective January 1, 2009, Bidders must address the requirements of the Darfur Contracting Act of 2008 (the "Darfur Contracting Act"). The Darfur Contracting Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 11475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 11476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 11477(a).)

Bidders must complete and include with the bid response the Darfur Contracting Act Certification Form available as Attachment 8 of Section H. Proposals that fail to submit the required form shall be considered nonresponsive and rejected.

H) Required Attachments

Refer to the following pages for additional Required Attachments.

ATTACHMENT 1

REQUIRED ATTACHMENT CHECK LIST

Complete this checklist to confirm the attachments. Place a check mark or "X" next to each item that you are submitting to the State. **For your proposal to be responsive, each of the following required attachments must be submitted with your proposal package.**

This checklist should be returned with your proposal package.

<u>Attachment</u>	<u>Attachment Name/Description</u>
_____ Attachment 1	Required Attachment Check List
_____ Attachment 2	Proposal/Proposer Certification Sheet
_____ Attachment 3	Cost Proposal Work Sheet
_____ Attachment 4	Bidder References
_____ Attachment 5	Minimum Qualification Certification
_____ Attachment 6	Payee Data Record (STD. 204)
_____ Attachment 7	Contractor Certification Clauses (CCC-307)
_____ Attachment 8	Darfur Contracting Act Certification Form
_____ Attachment 9	Small Business or Microbusiness Preference (if applicable) Additional information about this preference can be found online at http://www.dgs.ca.gov/pd/Programs/OSDS.aspx .
_____ Attachment 10	Non-Small Business Preference (if applicable) Additional information about this preference can be found online at http://www.dgs.ca.gov/pd/Programs/OSDS.aspx .
_____ Attachment 11	Target Area Contract Preference Act (TACPA) (if applicable) The forms and additional information about this preference program can be found online at http://www.dgs.ca.gov/pd/Programs/DisputeResolution.aspx .
_____ Attachment 12	Bidder Declaration (GSPD-05-105)
_____ Attachment 13	California Civil Rights Law Certification

ATTACHMENT 2

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

- A. Place all required attachments behind this certification sheet.
- B. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.
- C. The signature below certifies to the best of your knowledge that the information provided on this document is true and complete.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____	b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____	
NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes".		
Date application was submitted to OSBCR, if an application is pending:		

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 3

COST PROPOSAL

All specifications outlined in Section D(4) of the RFP shall be met or the Bidder's proposal will be considered **non-responsive and rejected**.

Do not make any modifications to these Cost Proposal forms, including the **200 total annual hours** and the **\$10,000 annual travel costs**.

See Section D(4) of the RFP for more details. Review the RFP and the calculations in this Cost Proposal carefully. Mathematical errors may be corrected by SIB.

Total Cost for Three-Year Contract Term shall be the sum of the "Total Annual Cost" for Year One, Year Two and Year Three, and shall not exceed \$375,000 for the potential three-year contract term.

Cost Proposal Detail

YEAR ONE

DIRECT LABOR (Staff Level/Title)	HOURS ¹	MULTIPLY	HOURLY RATE	EQUALS	YEAR ONE TOTAL ²	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
<i>TOTAL DIRECT LABOR</i>	200					\$
						(A)
INDIRECT COSTS (OVERHEAD & FRINGE BENEFITS)			%		TOTAL	
Overhead Rate				%	\$	
Fringe Benefits				%	\$	
<i>TOTAL INDIRECT COSTS</i>						\$
						(B)
TRAVEL COSTS					TOTAL	
Travel Costs					\$10,000	
<i>TOTAL TRAVEL COSTS</i>						\$ 10,000 ³
						(C)
DIRECT COSTS (EXCEPT LABOR)					TOTAL	
Equipment and Supplies (Itemized)					\$	
Other Direct Costs (Itemized)					\$	
<i>TOTAL DIRECT COSTS (EXCEPT LABOR)</i>						\$
						(D)
TOTAL ANNUAL COST FOR YEAR ONE ⁴						\$

¹ Total shall be calculated assuming 200 hours of services provided by all levels of staff (including subcontractors) for year one.

² Total shall be calculated by multiplying the number of hours per year by hourly rate for each level of staff (including subcontractors).

³ Travel costs at \$10,000 per year are included in this Attachment 3 – Cost Proposal and may not be modified.

⁴ Total shall be the sum of the totals for A-D.

Cost Proposal Detail

YEAR TWO

DIRECT LABOR (Staff Level/Title)	HOURS ¹	MULTIPLY	HOURLY RATE	EQUALS	YEAR TWO TOTAL ²	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
		X	\$	=	\$	
<i>TOTAL DIRECT LABOR</i>	200					\$
						(A)
INDIRECT COSTS (OVERHEAD & FRINGE BENEFITS)			%		TOTAL	
Overhead Rate				%	\$	
Fringe Benefits				%	\$	
<i>TOTAL INDIRECT COSTS</i>						\$
						(B)
TRAVEL COSTS					TOTAL	
Travel Costs					\$10,000	
<i>TOTAL TRAVEL COSTS</i>						\$ 10,000 ³
						(C)
DIRECT COSTS (EXCEPT LABOR)					TOTAL	
Equipment and Supplies (Itemized)					\$	
Other Direct Costs (Itemized)					\$	
<i>TOTAL DIRECT COSTS (EXCEPT LABOR)</i>						\$
						(D)
TOTAL ANNUAL COST FOR YEAR TWO ⁴						\$

¹ Total shall be calculated assuming 200 hours of services provided by all levels of staff (including subcontractors) per year.

² Total shall be calculated by multiplying the number of hours per year by hourly rate for each level of staff (including subcontractors).

³ Travel costs at \$10,000 per year are included in this Attachment 3 – Cost Proposal and may not be modified.

⁴ Total shall be the sum of the totals for A-D.

Cost Proposal Detail

YEAR THREE – POTENTIAL EXTENSION YEAR

DIRECT LABOR (Staff Level/Title)	HOURS ¹	MULTIPLY	HOURLY RATE	EQUALS	YEAR THREE TOTAL ²		
		X	\$	=	\$		
		X	\$	=	\$		
		X	\$	=	\$		
		X	\$	=	\$		
		X	\$	=	\$		
<i>TOTAL DIRECT LABOR</i>	200					\$	
						(A)	
INDIRECT COSTS (OVERHEAD & FRINGE BENEFITS)			%		TOTAL		
Overhead Rate					%	\$	
Fringe Benefits					%	\$	
<i>TOTAL INDIRECT COSTS</i>						\$	
						(B)	
TRAVEL COSTS					TOTAL		
Travel Costs					\$10,000		
<i>TOTAL TRAVEL COSTS</i>						\$ 10,000 ³	
						(C)	
DIRECT COSTS (EXCEPT LABOR)					TOTAL		
Equipment and Supplies (Itemized)					\$		
Other Direct Costs (Itemized)					\$		
<i>TOTAL DIRECT COSTS (EXCEPT LABOR)</i>						\$	
						(D)	
<i>TOTAL ANNUAL COST FOR</i>						\$	
<i>POTENTIAL YEAR THREE EXTENSION TERM</i> ⁴							

¹ Total shall be calculated assuming 200 hours of services provided by all levels of staff (including subcontractors) per year.

² Total shall be calculated by multiplying the number of hours per year by hourly rate for each level of staff (including subcontractors).

³ Travel costs at \$10,000 per year are included in this Attachment 3 – Cost Proposal and may not be modified.

⁴ Total shall be the sum of the totals for A-D.

ATTACHMENT 4

BIDDER REFERENCES

Submission of this attachment is mandatory. Failure to complete and return this attachment with your proposal will cause your proposal to be rejected and deemed nonresponsive.

List below five references for services performed within the last five years, which are similar to the scope of work to be performed in this contract. If five references cannot be provided, provide an explanation on an attached sheet of paper.

REFERENCE 1			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	
Brief Description of Service Provided			
REFERENCE 2			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	
Brief Description of Service Provided			
REFERENCE 3			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	
Brief Description of Service Provided			
REFERENCE 4			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	
Brief Description of Service Provided			

*Optional

REFERENCE 5

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	

Brief Description of Service Provided

SUBCONTRACTOR REFERENCES (if applicable)

List below three references for services performed by your subcontractor(s) within the last five years, which are similar to the scope of work to be performed in this contract. If three references cannot be provided, provide an explanation on an attached sheet of paper.

REFERENCE 1

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	

Brief Description of Service Provided

REFERENCE 2

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	

Brief Description of Service Provided

REFERENCE 3

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service*	

Brief Description of Service Provided

*Optional

ATTACHMENT 5

MINIMUM QUALIFICATIONS CERTIFICATION

The firm certifies that it fulfills all of the minimum qualifications outlined in Section B of Request for Proposals No. SIB 11-16 (the "RFP"). By signing this attachment, the firm also agrees to notify the ScholarShare Investment Board (SIB) immediately upon its failure to continue to meet the minimum qualifications, if selected as the 529 industry consultant for SIB.

On behalf of _____, I certify that said firm
(Firm Name)
complies with the Minimum Qualification set forth in Section B of the RFP.

(Authorized Signature of Firm)

(Firm Name)

(Print Name)

(Date)

(Title)

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>								
2	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>								
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>								
4	<p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>								
6	<p>This section must be completed by the State agency requesting the STD. 204.</p>								
	<p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>								

ATTACHMENT 7

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of

a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code Section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENT 8

DARFUR CONTRACTING ACT CERTIFICATION FORM

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Initialing (for Options 1 or 2)</i>	

1. _____ We do not currently have, or we have not had within the previous
Initials three years, business activities or other operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code
Initials section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years,
Initials business activities or other operations outside of the United States,
+ certification but we certify below that we are not a scrutinized company
Below as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

ATTACHMENTS 9, 10 & 11

PREFERENCE PROGRAMS (IF APPLICABLE)

Attach proof in claiming Small Business or Microbusiness Preference, Non-Small Business Preference, or Target Area Contract Preference Act Program, if applicable

Small Business or Microbusiness Preference

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Non-Small Business Preference

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Target Area Contract Preference Act (TACPA)

<http://www.dgs.ca.gov/pd/Programs/DisputeResolution.aspx>

ATTACHMENT 12

BIDDER DECLARATION

1. Prime bidder information (Review attached Bidder Declaration Instructions prior to completion of this form):

- a. Identify current California certification(s) (MB, SB, NVSA, DVBE):** _____ **or None** ____ (If "None," go to Item #2)
- b. Will subcontractors be used for this contract? Yes** ___ **No** ___ (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.

- c. If you are a California certified DVBE:** (1) Are you a broker or agent? **Yes** ___ **No** ___
(2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? **Yes** ___ **No** ___ **N/A** ___

2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, NVSA, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.

BIDDER DECLARATION Instructions

All prime bidders (the firm submitting the bid) must complete the Bidder Declaration.

1.a. Identify all current certifications issued by the State of California. If the prime bidder has no California certification(s), check the line labeled “None” and proceed to Item #2. If the prime bidder possesses one or more of the following certifications, enter the applicable certification(s) on the line:

- Microbusiness (MB)
- Small Business (SB)
- Nonprofit Veteran Service Agency (NVSA)
- Disabled Veteran Business Enterprise (DVBE)

1.b. Mark either “Yes” or “No” to identify whether subcontractors will be used for the contract. If the response is “No”, proceed to Item #1.c. If “Yes”, enter on the line the distinct element of work contained in the contract to be performed or the goods to be provided by the prime bidder. Do not include goods or services to be provided by subcontractors.

Bidders certified as MB, SB, NVSA, and/or DVBE must provide a commercially useful function as defined in Military and Veterans Code Section 999 for DVBEs and Government Code Section 14837(d)(4)(A) for small/microbusinesses.

Bids must propose that certified bidders provide a commercially useful function for the resulting contract or the bid will be deemed non-responsive and rejected by the State. For questions regarding the solicitation, contact the procurement official identified in the solicitation.

Note: A subcontractor is any person, firm, corporation, or organization contracting to perform part of the prime’s contract.

1.c. This item is only to be completed by businesses certified by California as a DVBE.

(1) Declare whether the prime bidder is a broker or agent by marking either “Yes” or “No”. The Military and Veterans Code Section 999.2 (b) defines “broker” or “agent” as a certified DVBE contractor or subcontractor that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to an awarding department, unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.

(2) If bidding rental equipment, mark either “Yes” or “No” to identify if the prime bidder owns at least 51% of the equipment provided (quantity and value). If **not** bidding rental equipment, mark “N/A” for “not applicable.”

2. If no subcontractors are proposed, do not complete the table. Read the certification at the bottom of the form and complete “Page ___ of ___” on the form.

If subcontractors will be used, complete the table listing all subcontractors. If necessary, attach additional pages and complete the “Page ___ of ___” accordingly.

2. (continued) Column Labels

Subcontractor Name, Contact Person, Phone Number & Fax Number—List each element for all subcontractors.

Subcontractor Address & Email Address—Enter the address and if available, an Email address.

CA Certification (MB, SB, NVSA, DVBE or None)—If the subcontractor possesses a current State of California certification(s), verify on this website (www.eprocure.pd.dgs.ca.gov).

Work performed or goods provided for this contract—Identify the distinct element of work contained in the contract to be performed or the goods to be provided by each subcontractor. Certified subcontractors must provide a commercially useful function for the contract. (See paragraph 1.b above for code citations regarding the definition of commercially useful function.) If a certified subcontractor is further subcontracting a greater portion of the work or goods provided for the resulting contract than would be expected by normal industry practices, attach a separate sheet of paper explaining the situation.

Corresponding % of bid price—Enter the corresponding percentage of the total bid price for the goods and/or services to be provided by each subcontractor. Do not enter a dollar amount.

Good Standing?—Provide a response for each subcontractor listed. Enter either “Yes” or “No” to indicate that the prime bidder has verified that the subcontractor(s) is in good standing for all of the following:

- Possesses valid license(s) for any license(s) or permits required by the solicitation or by law
- If a corporation, the company is qualified to do business in California and designated by the State of California Secretary of State to be in good standing
- Possesses valid State of California certification(s) if claiming MB, SB, NVSA, and/or DVBE status

51% Rental?—This pertains to the applicability of rental equipment. Based on the following parameters, enter either “N/A” (not applicable), “Yes” or “No” for each subcontractor listed.

Enter “N/A” if the:

- Subcontractor is NOT a DVBE (regardless of whether or not rental equipment is provided by the subcontractor) or
- Subcontractor is NOT providing rental equipment (regardless of whether or not subcontractor is a DVBE)

Enter “Yes” if the subcontractor is a California certified DVBE providing rental equipment and the subcontractor owns at least 51% of the rental equipment (quantity and value) it will be providing for the contract.

Enter “No” if the subcontractor is a California certified DVBE providing rental equipment but the subcontractor does NOT own at least 51% of the rental equipment (quantity and value) it will be providing.

Read the certification at the bottom of the page and complete the “Page ___ of ___” accordingly.

ATTACHMENT 13

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. **CALIFORNIA CIVIL RIGHTS LAWS**: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and

2. **EMPLOYER DISCRIMINATORY POLICIES**: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <i>Proposer/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

SAMPLE STANDARD AGREEMENT

STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER

SIB 11-16

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

ScholarShare Investment Board

CONTRACTOR'S NAME

2. The term of this Agreement is:

3. The maximum amount \$ of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work **3 pages**

Exhibit B – Budget Detail and Payment Provisions **1 page**

Attachment B-1 – Contractor's Cost Proposal

Exhibit C* – General Terms and Conditions **GTC-610**

Check mark one item below as Exhibit D:

Exhibit – D Special Terms and Conditions (Attached hereto as part of this agreement)

7 pages

Exhibit – D* Special Terms and Conditions

Attachment D-1 - Resumes

RFP SIB 11-16 and Contractor's response thereto are hereby incorporated by reference and made a part of this agreement.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

**California Department of General
Services Use Only**

Exempt per:

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1) Purpose of Service

The ScholarShare Investment Board (SIB) is the state entity that is responsible for effective and efficient administration of the Golden State ScholarShare College Savings Trust (Trust). The Trust was created through state legislation in 1997 (Chapter 851, Statute of 1997) and is a qualified State tuition program as defined in Section 529 of the Internal Revenue Code. SIB also administers the Governor's Scholarship Programs which rewarded public school students who demonstrated high academic achievement with scholarships.

A qualified 529 industry consultant is needed to provide SIB with ongoing expertise on the 529 industry, including trends, marketing and distribution strategies, 529 plan comparison analyses, assistance with writing request for proposals and analysis of the program manager's marketing plans and performance for ScholarShare.

2) Description of Service

The following scope of work details SIB's expectations generally for a 529 industry consultant (sometimes referred to as the "Contractor"). These 529 industry consulting services include the following:

- Provide general strategic consulting advice for the ScholarShare program. Make recommendations on program design and structure. Provide information and insight on the 529 industry.
- Assist SIB by providing 529 plan trends and comparisons. Advise SIB of new or different strategies that could be employed to increase participation in ScholarShare. Offer opinion or strategy on Plan name, branding, distribution, and marketing.
- Provide analysis of program manager's performance, particularly in marketing and administrative areas using monthly, quarterly and annual data. Assist in evaluation of marketing and administrative benchmarks.
- Review disclosure language and keep abreast of regulatory issues on SIB's behalf.
- Participate in the development of request for proposals and the subsequent selection process.
- Assist with contract negotiations if selection of a new program manager(s) is made or changes are made to existing relationships.
- Work with SIB's consultants and program manager(s) as needed.
- Provide second opinion (SIB has a primary investment consultant) on investments and investment performance if Bidder, or a subcontractor, is qualified.
- Attend all SIB meetings unless notified otherwise by the SIB or its designee. It is anticipated that SIB will meet approximately four times per year. Also, attend other meetings pertaining to the 529 industry (Securities and Exchange Commission or others) with or on behalf of SIB as needed.

**EXHIBIT A
(Standard Agreement)**

- Be available to consult with SIB members and the Executive Director from 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday.
 - Respond to the need for telephone consultation within a 24-hour period and be available for meetings with SIB with no greater than 10 days' notice.
- 3) The services shall be performed at the offices of the Contractor and at the offices of appropriate affiliates, related entities, subsidiaries and subcontractors; however there will be some mandatory meetings at 915 Capitol Mall, Sacramento, California 95814.
- 4) Contractor shall ensure that the quality and availability of its personnel assigned to this agreement will be maintained over the term of the agreement. Any changes in assigned personnel are at the discretion of the firm, provided that any replacements have substantially the same as or better qualifications and experience than the original personnel.
- 5) The performance of the Contractor will be evaluated based on the criteria outlined below.
- Responsiveness and timeliness in responding to inquiries made by SIB (members, Executive Director, and staff).
 - Availability to SIB for conference calls and board meetings, as needed.
 - Quality, completeness and timeliness in providing reports, memos, analyses and recommendations to SIB for review and consideration.
 - Quality and accuracy of information, data and support included in all product submitted to SIB.
 - Ability to provide SIB with, or direct SIB, to appropriate resources for information.
 - Ability to provide SIB with up-to-date information on industry standards, changes in the law and state comparisons.
 - Availability of resources to adequately perform on contract requirements (staff, consultants, etc).
 - Demonstrates working relationships with industry peers and organizations.
 - Demonstrates the ability to provide day-to-day management of tasks, coordination of support and administrative activities, and supervision of all Contractor employees.
 - Possesses the technical and functional skills, and knowledge to direct all aspects of the contract.
- 6) The project representatives during the term of this agreement will be:

State Agency: ScholarShare Investment Board	Contractor:
Name: Julio Martinez	Name:
Phone: 916-651-6380	Phone:
Fax: 916-589-2835	Fax:

7) Distribution/Ownership/Confidentiality of Data

The distribution of all data produced by the Contractor is restricted to SIB. This data becomes property of SIB, and SIB reserves exclusive rights to its further dissemination. In addition, Contractor shall keep confidential any information which identifies, or may identify, ScholarShare account holders.

**EXHIBIT A
(Standard Agreement)**

8) Conflict of Interest

In the event that during the term of the agreement, the Contractor begins a contractual or other business relationship with any investment management services contractor that provides services for the Trust or any investment manager directing funds in the ScholarShare portfolio, either on its own or in partnership, with other entities, it shall provide prior notification to SIB. Should the Contractor begin such a relationship, the agreement may be terminated immediately by SIB on the ground of conflict of interest and any payments made subsequent to the creation of the conflict shall be disgorged by the agreement. Also, the Contractor may continue to perform and receive payment under this agreement only if SIB executes a written waiver of conflict, which waiver may not be given retroactive effect.

This section applies to any subcontractors the Contractor may utilize for this agreement. Ownership of a ScholarShare account does not constitute a business relationship for the purposes of this article.

9) Agreement Extension

SIB shall have the option (with Contractor's approval) to extend this agreement for one year. The Contractor will be evaluated based on the criteria outlined in Section 5 of this Exhibit A to determine the quality of work and if renewal of the agreement is warranted. The amendment to extend the agreement for one year will be subject to the approval of SIB and the Department of General Services.

If the agreement is extended for one year, all rates will be as stated in Contractor's Cost Proposal for Year Three. Travel costs for the one year extension are capped at \$10,000.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1) Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rate specified herein, which is attached hereto as Attachment B-1 and made part of this agreement. Travel costs are capped at \$10,000 per year. The rates for necessary traveling expenses and per diem shall be set in accordance with the rates of the California Department of Human Resources (CalHR) for comparable classes and no travel outside the State of California shall be reimbursed unless prior written authorization is obtained from SIB.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

ScholarShare Investment Board
915 Capitol Mall, Room 105
Sacramento, CA 95814
Attention: Julio Martinez

In consideration for the satisfactory completion of the services described herein, SIB agrees to pay Contractor, in arrears, upon receipt of an invoice, for services rendered under this Agreement. The invoice shall be submitted by Contractor in sufficient scope and detail to define the actual work performed and specific milestones completed, including a description of the activities of Contractor and subcontractors and the hours allocated to those activities. The hourly rate for services rendered shall not exceed those as set forth herein or as attached hereto.

2) Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3) Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT C
(Standard Agreement)

GENERAL TERMS AND CONDITIONS

Exhibit C to this Agreement, the General Terms and Conditions (GTC-610), is hereby incorporated by reference and made part of this agreement as if attached hereto. The General Terms and Conditions can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, Contractor shall file a "Notice of Dispute" with a Deputy Treasurer of the State Treasurer's Office within ten (10) days of discovery of the problem. Within ten (10) days, the Deputy Treasurer shall meet with the representatives of Contractor and the State identified in Section 6 of Exhibit A for purposes of resolving the dispute. The decision of the Deputy Treasurer shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of any bid proposal.

3. Evaluation of Contractor

Pursuant to Public Contract Code sections 10367 and 10369 within sixty (60) days after the completion of this Agreement, the State shall complete a written evaluation of Contractor's performance under this Agreement. If this Agreement is a contract for consultant services and if Contractor did not satisfactorily perform the work, a copy of the evaluation will be sent to the Department of General Services (DGS), Office of Legal Services, and to the Contractor within fifteen (15) working days of the completion of the evaluation in accordance with Public Contract Code section 10371.

4. No Agency Liability

The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

5. Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the obligation of the State to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

EXHIBIT D
(Standard Agreement)

6. Force Majeure

Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance when such delays arise out of causes beyond the control and without the fault or negligence of the offending party. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.

7. Waivers

No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

8. Incorporation of Amendments to Applicable Laws

Any references to sections of federal or state statutes or regulations shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

9. Confidentiality

All financial, statistical, personal, technical and other data and information relating to the operations of the State which are designated confidential by the State and become available to Contractor shall be protected by Contractor from unauthorized use and disclosure.

10. Titles/Section Headings

Titles and headings are for convenience of reference only, and shall have no effect on the construction or legal effect of this Agreement.

11. Choice of Law

Notwithstanding Paragraph 14 of Exhibit C (General Terms and Conditions), this Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of laws provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder, including any action to compel arbitration or to enforce any award or judgment rendered thereby, shall be brought in state court sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

12. Notices

The parties agree that to avoid unreasonable delay in the progress of the services performed hereunder, Contractor and the State have designated in Section 6 of Exhibit A specific staff representatives for the purpose of communication between the parties. Any notice or other written communication required or which may be given hereunder shall be deemed given when delivered personally, or by mail three (3) days after the date of mailing, unless by express mail then upon the date of confirmed receipt, to the representatives named in Section 6 of Exhibit A.

EXHIBIT D
(Standard Agreement)

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or demands thereafter are to be addressed.

13. Permits and Licenses

Contractor shall carry out its duties and responsibilities herein in accordance with, be limited in the exercise of its rights by, and observe and comply with, all federal, state, city and county laws, rules or regulations affecting services under this Agreement. Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the work contemplated in this Agreement.

14. Books and Records

Contractor shall keep accurate books and records connected with the performance of this Agreement for a period of at least three (3) years. Contractor shall ensure that books and records of subcontractors, suppliers, and other providers shall also be accurately maintained. Such books and records shall be kept in a secure location and shall be available for inspection and copying by the State and its representatives at any time.

15. Key Personnel

- a. A resume for each member of Contractor's staff who will exercise a significant administrative, policy, or consulting role under this Agreement is attached to this Agreement as Attachment D-1. These members of Contractor's staff shall be hereafter referred to (both individually and collectively) as "Key Personnel."
- b. Contractor shall not substitute, replace or reassign Key Personnel without the prior approval of the State and an amendment to this Agreement.
- c. This Agreement may be terminated immediately, in the sole discretion of the State and upon written notice from the State to Contractor, because of any change in or departure of any of the Key Personnel.

16. Changes in Control, Organization or Key Personnel

Contractor shall promptly, and in any case within five (5) days, notify the State in writing: (i) if any of Contractor's representations and warranties, as set forth in this Agreement, cease to be true at any time during the term of this Agreement; (ii) of any change in Contractor's staff who exercises a significant administrative, policy, or consulting role under this Agreement, including without limitation any Key Personnel; (iii) of any change in the majority ownership, control, or business structure of Contractor; or (iv) of any other material change in Contractor's business, partnership or corporate organization. All written notices from Contractor under this provision shall contain sufficient information to permit the State to evaluate the changes within Contractor's staff or organization under the same criteria as was used by the State in its award of this Agreement to Contractor.

17. Insurance Requirements

Contractor warrants that it carries adequate liability, worker's compensation and other necessary insurance and shall maintain such insurance at levels acceptable to the State in full force and effect during the term of this Agreement. Contractor agrees to furnish satisfactory evidence of this insurance coverage to the State upon request.

**EXHIBIT D
(Standard Agreement)**

18. Subcontractors

- a. Contractor shall perform the work contemplated by this Agreement with resources available within its own organization except for subcontracted work identified in this Agreement or other attachment incorporated hereto. No other portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the State. The subcontractor must be mutually agreed upon in advance by both parties.
- b. Contractor shall require that any subcontractor agree to be bound by all provisions of this Agreement, as applicable.

19. Notice of Proceedings

Contractor shall promptly notify the State in writing of any investigation, examination or other proceeding involving Contractor, including any Key Personnel, commenced by any regulatory agency, which proceeding is not conducted in the ordinary course of Contractor's business.

20. Cumulative Remedies

The rights and remedies provided herein are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

21. Binding Effect

This Agreement, any instrument or agreement executed pursuant to this Agreement, and the rights, covenants, conditions and obligations of Contractor and the State contained therein, shall be binding upon the parties and their successors, assigns and legal representatives.

22. Publicity

No publicity release or announcement concerning this Agreement or the transactions contemplated herein shall be issued by Contractor without advance written approval by the State.

23. Services or Procurement Resulting from Agreement

Neither Contractor, nor any of its subsidiaries, officers or directors, may submit a bid or be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed to be an outgrowth of the advice or recommendations that Contractor provides under this Agreement.

24. Agreement Does Not Violate Law

Contractor represents and warrants that neither the execution of this Agreement nor the acts contemplated hereby nor compliance by Contractor with any provisions hereof will:

- a. Violate any provision of the charter documents of Contractor;
- b. Violate any statute or law or ordinance or any judgment, decree, order, regulation or rule of any court or governmental authority applicable to Contractor; or

EXHIBIT D
(Standard Agreement)

- c. Violate, or be in conflict with, or constitute a default under, or permit the termination of, or require the consent of any person under, any agreement to which Contractor may be bound, the violation of which in the aggregate would have a material adverse effect on the properties, business, prospects, earnings, assets, liabilities or condition (financial or otherwise) of Contractor.

25. Power and Authority

Contractor represents and warrants that it has the power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution of this Agreement has been duly authorized by Contractor and no other proceeding on the part of Contractor is necessary to authorize this Agreement. Contractor has completed, obtained and performed all registrations, filings, approvals, authorizations, consents or examinations required by any government or governmental authority for its acts contemplated by this Agreement.

26. Signature Authorization

The person signing this Agreement warrants that he/she is an agent of Contractor and is duly authorized to enter into this Agreement on behalf of Contractor.

27. Entire Agreement; Order of Precedence

- a. This Agreement, including documents that have been incorporated in this Agreement by reference, contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement.
- b. In the event there are any inconsistencies or ambiguities among the terms of this Agreement and incorporated documents, the following order of precedence shall be used: (i) applicable laws; (ii) the terms and conditions of this Agreement, including exhibits and attachments; (iii) the Request for Proposal (RFP) if any; (iv) Contractor's response to the RFP if any; and (v) any other provisions, terms, or materials incorporated herein.

28. Termination at Option of the State

In addition to the provisions of Paragraph 7 of Exhibit C (General Terms and Conditions), this Agreement may be terminated in whole or in part at any time upon 30 calendar days' written notice by the State, for any reason. Upon receipt of a termination notice, Contractor shall promptly discontinue all services affected unless the notice specifies otherwise. In the event the State terminates all or a portion of this Agreement for any reason, it is understood that the State will provide payment to Contractor for satisfactory services rendered prior to the termination, but not in excess of the maximum amount of this Agreement.

29. Termination for Insolvency

Contractor shall notify the State immediately in writing in the event that Contractor files any federal bankruptcy action or state receivership action, any federal bankruptcy or state receivership action is commenced against Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies. In the event of any of the foregoing events, or if the State determines, based on reliable information, that there is a substantial probability that Contractor will be financially unable to continue performance under this Agreement, the State may terminate this Agreement and all further rights and obligations immediately.

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30. Completion

In the event of termination for default, the State reserves the right to take over and complete the work by contract or other means. In such case, Contractor will be liable to the State for any additional cost incurred by the State to complete the work whether reimbursed or not.

31. Effect of Termination

All duties and obligations of the State and Contractor shall cease upon termination of this Agreement, except that:

- a. Each party shall remain liable for any rights, obligations, or liabilities arising from activities carried on by it under this Agreement prior to the effective date of termination; and
- b. Contractor shall provide for the return of all records of the State to the State or its designee and shall cooperate fully to effect an orderly transfer of services.

32. Termination for Expatriation

Contractor shall notify the State immediately in writing in the event that Contractor or its parent files any notice with the Securities and Exchange Commission that Contractor intends to reincorporate offshore. In the event of such notice, the State may terminate this Agreement and all further rights and obligations immediately by giving five (5) days' notice in writing in the manner specified herein.

33. Compliance With Political Reform Act

Contractor acknowledges that the State is subject to the provisions of the Political Reform Act (Government Code section 81000 et seq. and all regulations adopted thereunder, including, but not limited to, California Code of Regulations, title 2, section 18700 et. seq.) and Contractor shall comply promptly with any requirement thereunder. If required by law, Contractor shall require its personnel, including without limitation, its Key Personnel all later substitutions therefore, to file Statements of Economic Interests in compliance with the Conflict of Interest Code for the Office of the State Treasurer and the various boards, authorities, commissions, and committees chaired by the State Treasurer (California Code of Regulations, title 2, section 1897). All such reports shall be filed simultaneously with the State.

34. Darfur Contracting Act

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code section 10475 et seq.) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan of which the Darfur region is a part, for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a).)

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Therefore, Public Contract Code section 10478(a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from DGS according to the criteria set forth in Public Contract Code section 10477(b).