
January 26, 2015

AGENDA ITEM 04
INFORMATION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

Update on Request for Proposal for Market Analysis, Program Design, and Financial Feasibility Study

Presenter

Eric Lawyer

Background

This item will be presented verbally at the meeting.

Attachment

RFP No. CSCRSIB03-14

SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

**REQUEST FOR PROPOSAL-Secondary
Notice to Prospective Proposers**

**Market Analysis, Feasibility Study, and Program Design Consultant Services
(Non-IT Services)
RFP No. CSCRSIB03-14**

January 22, 2015

You are invited to review and respond to this Request for Proposal (“RFP”), No. CSCRSIB03-14, for market analysis, feasibility study, and program design consultant services. In submitting your proposal, you must comply with these instructions.

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 at Internet site www.ols.dgs.ca.gov/Standard+Language. If you do not have Internet access, a hard copy can be provided by contacting the person listed below.

In the opinion of the California Secure Choice Retirement Savings Investment Board (“Board”, “Secure Choice”, or the “State”), this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Eric Lawyer, Acting Executive Director
Secure Choice Retirement Savings Investment Board
915 Capitol Mall, Room 110
Sacramento, CA 95814
916-653-2995 phone
916-653-3125 fax
Eric.Lawyer@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.

PLEASE CAREFULLY READ THE RFP AND FOLLOW THE INSTRUCTIONS.

Table of Contents

| Section | Page |
|--|------|
| A) Purpose and Description of Services | 3 |
| B) Minimum Qualifications | 6 |
| C) Proposal Requirements and Information..... | 6 |
| 1) Key Action Dates | 6 |
| 2) Experience, Personnel, and References | 7 |
| 3) Legal Disclosures | 7 |
| 4) Conflicts of Interest | 7 |
| 5) Work Plan and Work Schedule Requirements | 8 |
| 6) Cost Detail Format and Requirements | 8 |
| 7) Submission of Proposal | 8 |
| 8) Evaluation Process | 10 |
| 9) Award and Protest | 12 |
| 10) Disposition of Proposals | 13 |
| 11) Agreement Execution and Performance | 13 |
| D) Preference Programs and DVBE | 14 |
| 1) Small Business Preference | |
| 2) Target Area Contract Preference Act (TACPA) | |
| 3) Disabled Veteran Business Enterprise (DVBE) Participation - <u>WAIVED</u> | |
| E) Required Attachments | 15 |
| 1) Required Attachment Checklist | |
| 2) Proposal/Proposer Certification Sheet | |
| 3) Cost Proposal Worksheet | |
| 4) Proposer References | |
| 5) Certification of Compliance with the Darfur Contracting Act | |
| 6) Payee Data Record (STD 204) | |
| 7) Contractor's Certification Clauses (CCC) 307 | |
| 8) Minimum Qualifications Certification | |
| F) Sample Standard Agreement (STD 213) | |
| 1) Exhibit A, Scope of Work | |
| 2) Exhibit B, Budget Detail and Payment Provisions | |
| 3) Exhibit C, General Terms and Conditions | |
| 4) Exhibit D, Special Terms and Conditions | |
| 5) Exhibit E, Additional Provisions | |

A) Purpose and Description of Services

1) Background

Legislation enacted in 2012 (SB 1234, Chapter 734, 2012) authorizes consideration of the California Secure Choice Retirement Savings Program ("Program"). If implemented, the Program would provide a voluntary, low-risk, automatic-enrollment retirement savings plan for an estimated 6.3 million California workers who currently lack access to retirement savings plans through their employer. The Program would require private employers with five or more employees not currently offering a retirement savings plan to provide their employees access to, and payroll deductions for, Secure Choice retirement accounts. Implementation is contingent on enactment of subsequent legislation. The Program would be administered by the nine-member Board, chaired by the State Treasurer.

Before the Legislature can consider further legislation to implement the Program, SB 1234 requires the Board to conduct a market analysis to determine whether the legal and practical conditions for implementation can be met. The Board has approved an approach to the market analysis that includes four distinct, but well-coordinated work streams:

- a) Program Design – Program design narrowly tailored, as necessary or advisable, for the purposes of the market analysis, including financial feasibility study and legal feasibility study.
- b) Market Analysis – A market analysis to determine likely levels of participation and elements of the Program that could maximize participation, maximize the likelihood of private sector financial providers offering products and services necessary to the Program, and minimize inconvenience or disruptions to employers.
- c) Financial Feasibility Study (also referred to as "feasibility study") – A financial analysis to determine whether likely demand and participation would make it possible for the proposed Program to be self-sustaining as the statute requires.
- d) Legal Feasibility Study – A legal analysis to determine whether the Program, as designed in the Program Design phase, meets legal requirements specified in the Secure Choice Retirement Savings Trust Act. Government Code section 100043 provides, "The board shall not implement the Program if the IRA arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the Program is an employee benefit plan under the federal Employee Retirement Income Security Act."

The Board will contract with a law firm to conduct the legal feasibility study. With this RFP, the Board seeks a contractor for the Program design, market analysis, and financial feasibility study. The contractor will assist the Board with Program design for the purposes of the market analysis, financial feasibility study, and legal feasibility study; conduct the market analysis and financial feasibility study; and provide technical support for the legislative process if any further state or federal legislation is required. The contractor selected with this RFP will need to coordinate its work with the law firm selected to conduct the legal feasibility study.

Public Contract Code Section 10365.5: Please be aware that no person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor 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 appropriate in

the end product of the consulting services contract. However, this prohibition does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

2) Scope of Services

The Program design, market analysis, and financial feasibility study must include, at a minimum, a survey (or other method of gathering information) of employees and employers.

- a) Program Design – Although the majority of the Program design features and administration is expected to be made when and if the Legislature authorizes implementation of the Program, the legal analysis, market analysis, and feasibility study will require consideration of some Program features and administration.
 - i. Recommend the design, implementation, and administration of the Program that will maximize outreach to eligible employers and participation by eligible employees, which includes the following:
 - The Program accords with best practices for retirement savings vehicles, maximizes participation and savings among eligible employees, ensures benefits are portable, and maximizes ease of administration for participating employers. Best practices should include findings or research by experts, including behavioral economists and academics, on retirement savings behavior.
 - Examination of investment options, if any, including number and type, to be offered by the Program.
 - ii. Assess how to determine the eligibility of an employer, employee, or other individual to participate in the Program.
 - iii. Evaluate and recommend a means of determining whether employers do not provide an employer-sponsored retirement plan to their employees.
 - iv. Recommend the enrollment process of participants, including termination of participation and election to opt-out.
 - v. Recommend how to establish payroll deduction contributions and assess how to minimize cost and administrative burden to employers.
 - vi. Make recommendations on the default contribution rate, and maximum and minimum contribution amounts.
 - vii. Recommend whether automatic escalation of contributions should be included in the Program and, if so, recommend the period and percentage automatic escalation that best achieves the goals of maximizing participation and savings among eligible employees.
 - viii. Recommend rollover and transfer processes, withdrawal requirements, and the extent the Program should limit, and the best means of preventing, pre-retirement withdrawals.
 - ix. Recommend a process by which an individual or an employee of a nonparticipating employer may enroll in and make contributions to the Program.

- x. Make recommendations about the feasibility of offering some form of annuities to participants.
 - xi. Make recommendations about the feasibility of investment options that offer participants guaranteed returns on contributions.
 - xii. Make other recommendations for and assessments of the Program for purposes of the market analysis, financial feasibility study, and legal feasibility study.
 - xiii. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- b) Market Analysis
- i. Conduct a market analysis to determine whether the necessary conditions for implementation of the Program can be met, including, but not limited to, likely participation rates, participants' comfort with various investment vehicles and degree of risk, contribution levels, and the rate of account closures and rollovers.
 - ii. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- c) Financial Feasibility Study
- i. Assess whether the Program will be self-sustaining.
 - ii. Recommend the amount of funds necessary to implement the Program and the best means of financing.
 - iii. Recommend a cost and fee structure that ensures the Program is self-sustaining, simple to administer, and low-cost to participants.
 - iv. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- d) **Reach out to stakeholders (including employers, employees, and representatives of employer and employee groups) for the Program design, market analysis, and financial feasibility study. Assess their concerns and interests regarding the Program and advise whether an issue or feature must or should be incorporated in the Program design, market analysis, and/or financial feasibility study.**
- e) Coordinate its work with the Board's other contractor(s) as appropriate or necessary.
 - f) Recommend and assist with drafting legislation and providing technical information or explanation to the California state legislature as may be advisable or required.
 - g) Attend Board meetings (approximately one per month) and other meetings as requested.
 - h) Submit a detailed Final Report of the contractor's research, findings, analyses, conclusions, and recommendations, incorporating the contractor's Program design, market analysis, and financial feasibility study work. The Final Report must also include the contractor's work in coordination with the Board's other contractor(s) and legislation recommendations as may be advisable or required.

B) MINIMUM QUALIFICATIONS – MUST COMPLETE ATTACHMENT 8

Proposer must complete Attachment 8 certifying that the Proposer meets the following minimum qualifications:

1. At least five (5) years of experience with conducting market analyses and feasibility studies related to retirement or other employee benefit issues. Experience must include actuarial or other financial expertise necessary to project the number and level of participation that would be sufficient for the Program to be self-sustaining.
2. Must be qualified to do business in the State of California. If awarded the contract, Proposer must be able to provide, at the State's request, evidence of qualification to do business in the State of California from the California Secretary of State. If awarded the contract, Proposer must also be able to provide, at the State's request, evidence of qualification to do business in the State of California from the California Secretary of State *for any subcontractor* identified as personnel under "Experience, Personnel, and References", Section C, Item 2.b ("Qualifications of Personnel").
3. If applicable, 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) Key Action Dates

It is recognized that time is of the essence. All Proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times:

| <u>Date</u> | <u>Action</u> |
|-------------------|--|
| January 22, 2015 | RFP Available to Prospective Proposers |
| January 27, 2015 | Final Date to Submit Written Questions |
| January 30, 2015 | Answers to Written Questions Posted on the Secure Choice Website: http://www.treasurer.ca.gov/scib/index.asp |
| February 5, 2015 | Final Date to Submit Proposals Proposals must be received at the Secure Choice office at 915 Capitol Mall, Room 110, Sacramento, CA 95814 by 4:00 P.M. (PT). |
| February 23, 2015 | Interviews of the Finalists at 915 Capitol Mall, Rm. 587 Sacramento, CA 95814 |
| February 23, 2015 | Notice of Intent to Award |
| March 2, 2015 | Proposed Award Date |
| March 16, 2015 | Proposed Contract Start Date (pending DGS approval) |

2) **EXPERIENCE, PERSONNEL, AND REFERENCES**

a) Experience:

- i. Describe the proposer's experience conducting market analyses related to retirement or other employee benefit issues, including experience conducting market analysis for companies in the financial services industry and regarding personal finance or savings behavior, low income workers, and small employers.
- ii. Describe the proposer's experience conducting feasibility studies related to retirement or other employee benefit issues.
- iii. Describe the proposer's experience advising clients on issues related to the design, implementation, or administration of retirement or other employee benefit plans, including individual retirement accounts and individual retirement annuities (individually and collectively "IRA").

- b) Qualifications of Personnel: Identify the personnel that will be providing the services if awarded the contract, including years and type of experience for each person. Experience should include number of years at the current firm as well as all prior relevant employment. Please also include staff of subcontractors, if any. The contractor is expected to ensure that the quality and availability of personnel assigned to perform services under the contract will be maintained over the term of the contract. Replacements must have substantially the same or better qualifications and experience than the original personnel. Any change in assigned personnel must be pre-approved by the State.

Identify the role each person will serve in the contract and his/her title.

Provide detailed resumes for individuals that will be directly involved in providing the services under the contract including any proposed subcontractors and their employees, if any.

- c) References (Attachment 4) - Submit at least three (3) references from clients for which the proposer has provided services similar to "Scope of Services", Section A, Item 2 within the last five (5) years.

3) **Legal Disclosures**

Describe any litigation or actions pending against the firm, any of its partners or any individual employed by the firm that would be providing services under the contract. Please include information about any criminal indictments or convictions against the firm or the individuals. Also, include information about any material pending legal action, or settlement or judgment involving a claim of fraud, whether civil or criminal.

4) **Conflicts of Interest**

Please 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.

5) WORK PLAN AND WORK SCHEDULE REQUIREMENTS

The proposer shall submit a work plan or schedule for task completion. Identify each major task, necessary subtask, and/or specific milestones by which progress can be measured and payments made.

Contractor will be required to submit monthly Progress Reports describing the work performed, work status, work progress difficulties encountered, remedial action, and statement of activity anticipated subsequent to reporting period for approval prior to payment of invoices.

Progress payments are permitted for work performed under the contract. In accordance with Public Contract Code section 10346, ten percent (10%) of the invoiced amount will be withheld pending final completion of the contract, including the receipt, acceptance, and written approval by the State of the Final Report required under "Scope of Services", Section A, Item 2.

6) COST DETAIL FORMAT AND REQUIREMENTS

The proposed work must be broken down into the work plan or schedule (Section C, Item 5). Use the Cost Proposal Worksheet (Attachment 3) to prepare your cost proposal. Review this section and the Cost Proposal Worksheet, including your calculations, carefully. Mathematical errors may be corrected by the State.

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

Lowest cost proposal, based on the "Total Cost" on the Cost Proposal Worksheet (Attachment 3) is awarded the maximum cost points (30 points). Other proposals are awarded cost points based on the following calculation:

$$\begin{aligned} &(\text{lowest cost proposal} / \text{other cost proposal}) = (\text{factor}) \\ &(\text{factor}) \times \text{maximum cost points} = \text{cost points for other proposal} \end{aligned}$$

EXAMPLE: A maximum of 30 cost points is available.

$$\begin{aligned} \text{lowest cost proposal} &= \$75,000 \\ \text{other cost proposal} &= \$100,000 \end{aligned}$$

$$\begin{aligned} &\$75,000 / \$100,000 = 3/4 \\ &3/4 \times 30 \text{ maximum cost points} = 22.5 \text{ cost points for other proposal} \end{aligned}$$

7) Submission of Proposal

- a) Proposals should provide straightforward and concise descriptions of the proposer'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) The proposal package should be prepared in the least expensive method.
- c) All proposals must be submitted under **sealed** cover and sent to Secure Choice by the date and time shown in Section C, Proposal Requirements and Information, Item 1) Key Action Dates. Proposals received after this date and time will not be considered.

- d) A minimum of six (6) 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 proposer. 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, firm's name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

Secure Choice Retirement Savings Investment Board
Market Analysis, Feasibility Study, and Program Design Consultant Services
RFP No. CSCRSIB03-14

DO NOT OPEN

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

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

- g) All proposals shall include the documents identified in Section E, Required Attachment Checklist. Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- h) Mail or deliver proposals to the following address:

Secure Choice Retirement Savings Investment Board
915 Capitol Mall, Room 110
Sacramento, CA 95814
- 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.** The State may reject any or all proposals and may waive an immaterial deviation in a proposal. The State's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.
- k) Costs incurred for developing proposals and in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California.
- l) An individual who is authorized to bind the proposer contractually shall sign Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position of that the individual. An unsigned proposal may be rejected.
- m) A proposer 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 Key Action Dates. Proposal modifications offered in any other manner, oral or written,

will not be considered.

- n) A proposer may withdraw its proposal by submitting a written withdrawal request to the State, signed by the proposer or an authorized agent in accordance with h) above. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- o) The State may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.
- p) The State reserves the right to reject all proposals. The State is not required to award an agreement.
- q) Before submitting a response to this solicitation, proposers should review, correct all errors and confirm compliance with the RFP requirements.
- r) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered.
- s) The State does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions (GTC) are not negotiable.
- t) No oral understanding or agreement shall be binding on either party.
- u) **Public Contract Code Section 10365.5: Please be aware that no person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor 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 appropriate in the end product of the consulting services contract. However, this prohibition does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.**

8) Evaluation Process

- a) At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP.
- b) Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, may be rejected.
- c) Contract award, if any, will be made to the highest scoring responsive and responsible proposer.

Tiebreaker: In the event two (2) or more responsive and responsible proposers earn the highest score, the contract will be awarded to the responsive and responsible proposer earning the higher score in Experience and Qualifications. If the scores for Experience and Qualifications are the same, the contract will be awarded to the responsive and responsible proposer earning the higher score in the Interview phase. If the scores in the Interview phase are the same, the contract will be awarded to the responsive and responsible proposer earning the higher score for Work Plan and Work Schedule. If the scores for Work Plan and Work Schedule are the same, the contract will be awarded to the responsive and responsible proposer earning the higher score for Cost.

- d) **INTERVIEWS OF FINALISTS:** Two (2) proposers with the two (2) highest total scores for Experience and Qualifications, Work Plan and Work Schedule, and Cost will be interviewed by the Board at a public meeting on February 23, 2015. If more than two (2) proposers earn the two (2) highest total scores for Experience and Qualifications, Work Plan and Work Schedule, and Cost (one or more ties), all proposers with the two (2) highest total scores for Experience and Qualifications, Work Plan and Work Schedule, and Cost will be interviewed. Nevertheless, in order to proceed to the Interview, Finalists must earn a minimum score of 20 points for Experience and Qualifications, and a minimum score of 15 points for Work Plan and Work Schedule. Finalists will be notified ten (10) days before the date of the interview. The Chair of the Board will draw a number for each Finalist, and interviews will be conducted in order according to the drawn number (“1” shall be interviewed first, etc.). Finalists will not be permitted in the room or in Room 590 during interviews of other Finalists. Interviews will be verbal/oral. The following five (5) questions will be given by the Chair for each Finalist:

Interview Question 1: What is your understanding of the objectives of SB 1234; and what are the most significant challenges to implement the California Secure Choice Retirement Savings Program and how should those challenges be addressed?

Interview Question 2: How would you address the unique demographic of potential California Secure Choice Retirement Savings Program participants, such as age, type of employment, economic levels, race, and ethnicity, in your approach to the Scope of Services?

Interview Question 3: Stakeholders, including representatives of employee and employer groups, have wide ranging concerns and interests with respect to the California Secure Choice Retirement Savings Program. How can this Board be assured that your work will be responsive, while objective?

Interview Question 4: Please describe a project your firm successfully completed that is similar to the Scope of Services under the RFP.

Interview Question 5: Please explain why the personnel identified in your proposal comprise a team that is able to successfully complete the Scope of Services in the RFP.

e) **Proposal Evaluation**

The proposals, which include all required Attachments, that are submitted as required by the deadline specified in this RFP and meet the minimum qualifications will be evaluated and scored according to the criteria indicated below. A responsive proposal is one, which meets or exceeds the requirements stated in this RFP.

Rating/Scoring Criteria

Maximum
Possible Points

Experience and Qualifications:

Proposal demonstrates substantial qualifications and experience conducting market analyses related to retirement or other employee benefit issues, including experience conducting market analysis for companies in the financial services industry and regarding personal finance or savings behavior, low income workers, and small employers.

Proposal demonstrates substantial qualifications and experience conducting feasibility studies related to retirement or other employee benefit issues.

Proposal demonstrates substantial qualifications and experience advising clients on issues related to the design, implementation, or administration of retirement or other employee benefit plans, including IRAs.

Personnel identified in the proposal are well-qualified.

25

Work Plan and Work Schedule:

The work plan or schedule for task completion is realistic and comprehensive, and each major task, necessary subtask, and/or specific milestones can effectively measure progress and payments.

20

Cost:

The cost proposal will be scored based on “Cost Detail Format and Requirements”, Section C, Item 6.

30

Interview (Finalists only):

Each question will be worth 5 points.

5 points = “excellent” response.

4 points = “very good” response.

3 points = “good” response.

2 points = “fair” response.

1 point = “poor” response.

0 points = Finalist did not answer the question at all.

Points for the Interview will be calculated based on the average of scores from Board members scoring the Interviews: for each Finalist, all scores from each Board member will be added and then divided by the number of Board members.

25

Total Possible
Points: 100

9) Award and Protest

- a) Notice of the proposed award shall be posted in a public place in the office of the Secure Choice Retirement Savings Investment Board, 915 Capitol Mall, Sacramento, California 95814 and on the Internet at www.treasurer.ca.gov/scib, for five (5) working days prior to awarding the agreement.

- b) If any proposer, prior to the award of agreement, files a protest with Secure Choice and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, California 95605, on the grounds that the protesting proposer would have been awarded the contract had the agency correctly applied the evaluation standard in the RFP, or if the agency followed the evaluation and scoring methods in the RFP, the agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that you submit any protest by certified or registered mail.
- c) Within five (5) days after filing the initial protest, the protesting proposer shall file with the Department of General Services, Office of Legal Services and Secure Choice a detailed statement specifying the grounds for the protest.
- d) Upon resolution of the protest and award of the agreement, Contractor must complete and submit to Secure Choice 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 can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT CENTER. No payment shall be made unless a completed STD 204 has been returned to Secure Choice.
- e) Upon resolution of the protest and award of the agreement, Contractor must sign and submit to Secure Choice, *page one (1)* of the Contractor Certification Clauses (CCC), which can be found on the Internet at www.ols.dgs.ca.gov/Standard+Language.

10) Disposition of Proposals

- a) Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, 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 proposer's expense, unless such expense is waived by Secure Choice.

11) Agreement Execution and Performance

- a) Performance shall start not later than three (3) days, or on the express date set by Secure Choice and the Contractor, after all approvals have been obtained and the agreement is fully executed. Should the Contractor fail to commence work at the agreed upon time, Secure Choice, 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 term of the agreement, if an award is made, is expected to start on March 16, 2015 or upon Department of General Services (DGS) approval, whichever is later, and end on October 30, 2015. However, the State at its sole discretion may extend the agreement

term for additional year(s). The State's option to extend the term of the agreement may be exercised through one or more amendment(s) until the project is complete or the Program is implemented. The agreement may be further amended at the State's sole discretion to adjust the scope of work due to legislative changes, federal requirements, or as otherwise necessary for the project or Program to meet statutory requirements. Although the total amount of the agreement may be amended to compensate the contractor for the change in scope of work or agreement extension (total amount of all amendments, if any, shall not exceed 30% of the original total amount of the agreement), the rates will remain the same throughout the term of the agreement.

D) Preference Programs and DVBE

- 1) Small Business Preference – www.dgs.ca.gov/pd/Programs.aspx (SB/DVBE - OSDS tab)
(If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

Small Business / Microbusiness Preference

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>.

Non-Small Business Preference

A five percent (5%) 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 proposal must include a list of the small business(es) with which the Proposer commits to subcontract in an amount of at least 25% of the net proposal 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 proposal 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 proposal price (as specified in the solicitation) per subcontractor.

Proposers claiming the 5% preference must commit to subcontract for at least 25% of the net

proposal 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. 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 California certified small business subcontractor participation of 25% of its net proposal price shall be 5% of the highest scoring proposal. A non-small business, which qualifies for this preference, may not take an award away from a certified small business.

- 2) Target Area Contract Preference Act (TACPA) - www.dgs.ca.gov/pd/Programs.aspx (Dispute Resolution tab) (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.pd.dgs.ca.gov/edip/tacpa.htm>

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)

- 3) Disabled Veteran Business Enterprise (DVBE) participation requirements are **waived** for this RFP and agreement.

E) Required Attachments

Refer to the following pages for additional Required Attachments.

ATTACHMENT 1

REQUIRED ATTACHMENT CHECKLIST

A complete proposal or proposal package will consist of the items identified below.

Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package also.

| <u>Attachment</u> | <u>Attachment Name/Description</u> |
|---------------------------|--|
| _____ Attachment 1 | Required Attachment Checklist |
| _____ Attachment 2 | Proposal/Proposer Certification Sheet |
| _____ Attachment 3 | Cost Proposal Worksheet |
| _____ Attachment 4 | Proposer References |
| _____ Attachment 5 | Certification of Compliance with the Darfur Contracting Act |
| _____ Attachment 6 | Payee Data Record (STD 204) |
| _____ Attachment 7 | Contractor Certification Clauses (CCC) 307 CCC 307 can also be found on the Internet at www.ols.dgs.ca.gov/Standard+Language . |
| _____ Attachment 8 | Minimum Qualifications 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.

Do not return the "Sample Agreement" at the end of this RFP.

- A. Place all required attachments behind this certification sheet.
- B. The signature affixed hereon and dated certifies compliance with all the requirements of the RFP. The signature below authorizes the verification of this certification.

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 and Disabled Veteran Business Enterprise (OSDS) as: | | |
| a. California Small Business Yes No If yes, enter certification number: | b. Disabled Veteran Business Enterprise Yes No 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 OSDS, 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.

| | |
|-----------------------|---|
| | |
| 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 OSDS. |

ATTACHMENT 3

COST PROPOSAL WORKSHEET

DIRECT LABOR

Provide the description (name and title/position), hourly rate, and number of hours for each person that will provide services under the contract.

| | <u>Rate</u> | <u>Hours</u> | | | |
|--|-------------|--------------|-------|---|----------|
| Lead Consultant [Name, Title/Position] | \$ _____ | x _____ | hours | = | \$ _____ |
| [Name, Title/Position] | \$ _____ | x _____ | hours | = | \$ _____ |
| [Name, Title/Position] | \$ _____ | x _____ | hours | = | \$ _____ |

(A) TOTAL DIRECT LABOR COSTS \$ _____

INDIRECT COSTS (OVERHEAD AND FRINGE BENEFITS)

| | | |
|-----------------|---------|----------|
| Overhead Rate | % _____ | \$ _____ |
| Fringe Benefits | % _____ | \$ _____ |

(B) TOTAL INDIRECT COSTS \$ _____

DIRECT COSTS (EXCEPT LABOR)

| | |
|-----------------------------------|----------|
| Travel Costs* | \$ _____ |
| Equipment and Supplies (Itemized) | \$ _____ |
| Other Direct Costs (Itemized) | \$ _____ |

(C) TOTAL DIRECT COSTS (EXCEPT LABOR) \$ _____

TOTAL COST (proposal cost points will be based on this total amount) \$ _____

Add the totals in lines (A), (B), and (C) to achieve the Total Cost: (A)+(B)+(C) = Total Cost

*Travel costs will be paid based on 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 the State.

ATTACHMENT 4

PROPOSER REFERENCES

Submit at least three (3) references from clients for which the proposer has provided services similar to "Scope of Services", Section A, Item 2 within the last five (5) years.

| REFERENCE 1 | | | |
|---------------------------------------|--------------------------|-------|----------|
| Name | | | |
| 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 | | | |
| 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 | | | |
| Street Address | City | State | Zip Code |
| Contact Person | Telephone Number | | |
| Dates of Service | Value or Cost of Service | | |
| Brief Description of Service Provided | | | |

Certificate of Compliance with the Darfur Contracting Act

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, and 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> |

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> | | | | | | | | |

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

MINIMUM QUALIFICATIONS CERTIFICATION

Proposer certifies that it meets the minimum qualifications in Section B of this RFP. If awarded the contract, Proposer is able to provide at the State's request evidence of qualification to do business in the State of California from the California Secretary of State, as well as such evidence for any subcontractor identified as personnel.

(Authorized Signature for Proposer)

(Name and Title)

(Proposer Name)

| |
|---------------------|
| AGREEMENT NUMBER |
| REGISTRATION NUMBER |

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

STATE AGENCY'S NAME

California Secure Choice Retirement Savings Investment Board

CONTRACTOR'S NAME

TBD

2. The term of this Agreement is: _____ through _____

3. The maximum amount of this Agreement is: \$ TBD
 TBD dollars and cents

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 |
| Attachment A.1 - Contractor's Work Plan/Schedule | TBD pages |
| Exhibit B – Budget Detail and Payment Provisions | 1 page |
| Attachment B.1 - Contractor's Cost Proposal | TBD pages |
| Exhibit C* – General Terms and Conditions | GTC 610 |
| Exhibit D – Special Terms and Conditions | 7 pages |
| Exhibit E – Additional Provisions | 1 page |
| Resumes | TBD pages |

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 www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx

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

| | | |
|---|--------------------------|---|
| CONTRACTOR | | <i>California Department of General Services Use Only</i> |
| CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) | | |
| TBD | | |
| BY (Authorized Signature) | DATE SIGNED(Do not type) | |
|  | | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | |
| TBD | | |
| ADDRESS | | |
| TBD | | |
| STATE OF CALIFORNIA | | <input type="checkbox"/> Exempt per: |
| AGENCY NAME | | |
| California Secure Choice Retirement Savings Investment Board | | |
| BY (Authorized Signature) | DATE SIGNED(Do not type) | |
|  | | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | |
| Eric Lawyer, Acting Executive Director | | |
| ADDRESS | | |
| 915 Capitol Mall, Rm. 110, Sacramento, CA 95814 | | |

EXHIBIT A

SCOPE OF WORK

1. Background

Legislation enacted in 2012 (SB 1234, Chapter 734, 2012) authorizes consideration of the California Secure Choice Retirement Savings Program ("Program"). If implemented, the Program would provide a voluntary, low-risk, automatic-enrollment retirement savings plan for an estimated 6.3 million California workers who currently lack access to retirement savings plans through their employer. The Program would require private employers with five or more employees not currently offering a retirement savings plan to provide their employees access to, and payroll deductions for, Secure Choice retirement accounts. Implementation is contingent on enactment of subsequent legislation. The Program would be administered by the nine-member Board, chaired by the State Treasurer.

Before the Legislature can consider further legislation to implement the Program, SB 1234 requires the Board to conduct a market analysis to determine whether the legal and practical conditions for implementation can be met. The Board has approved an approach to the market analysis that includes four distinct, but well-coordinated work streams:

- a) Program Design – Program design narrowly tailored for and as necessary or advisable for the purposes of the market analysis, including financial feasibility study and legal feasibility study.
- b) Market Analysis – A market analysis to determine likely levels of participation and elements of the Program that could maximize participation, maximize the likelihood of private sector financial providers offering products and services necessary to the Program, and minimize inconvenience or disruptions to employers.
- c) Financial Feasibility Study (also referred to as "feasibility study") – A financial analysis to determine whether likely demand and participation would make it possible for the proposed Program to be self-sustaining as the statute requires.
- d) Legal Feasibility Study – A legal analysis to determine whether the Program, as designed in the Program Design phase, meets legal requirements specified in the Secure Choice Retirement Savings Trust Act. Government Code section 100043 provides, "The board shall not implement the Program if the IRA arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the Program is an employee benefit plan under the federal Employee Retirement Income Security Act."

2. Scope of Services

The Program design, market analysis, and financial feasibility study must include, at a minimum, a survey (or other method of gathering information) of employees and employers.

- a. Program Design – Although the majority of the Program design features and administration is expected to be made when and if the Legislature authorizes implementation of the Program, the legal analysis, market analysis, and feasibility study will require consideration of some Program features and administration.
 - i. Recommend the design, implementation, and administration of the Program that will maximize outreach to eligible employers and participation by eligible employees, which includes the following:
 - The Program accords with best practices for retirement savings vehicles, maximizes participation and savings among eligible employees, ensures benefits are portable, and maximizes ease of administration for participating employers. Best practices should include findings or research by experts, including behavioral economists and academics, on retirement savings behavior.
 - Examination of investment options, if any, including number and type, to be offered by the Program.
 - ii. Assess how to determine the eligibility of an employer, employee, or other individual to participate in the Program.

EXHIBIT A

- iii. Evaluate and recommend a means of determining whether employers do not provide an employer-sponsored retirement plan to their employees.
 - iv. Recommend the enrollment process of participants, including termination of participation and election to opt-out.
 - v. Recommend how to establish payroll deduction contributions and assess how to minimize cost and administrative burden to employers.
 - vi. Make recommendations on the default contribution rate, and maximum and minimum contribution amounts.
 - vii. Recommend whether automatic escalation of contributions should be included in the Program and, if so, recommend the period and percentage automatic escalation that best achieves the goals of maximizing participation and savings among eligible employees.
 - viii. Recommend rollover and transfer processes, withdrawal requirements, and the extent the Program should limit, and the best means of preventing, pre-retirement withdrawals.
 - ix. Recommend a process by which an individual or an employee of a nonparticipating employer may enroll in and make contributions to the Program.
 - x. Make recommendations about the feasibility of offering some form of annuities to participants.
 - xi. Make recommendations about the feasibility of investment options that offer participants guaranteed returns on contributions.
 - xii. Make other recommendations for and assessments of the Program for purposes of the market analysis, financial feasibility study, and legal feasibility study.
 - xiii. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- b. Market Analysis
- i. Conduct a market analysis to determine whether the necessary conditions for implementation of the Program can be met, including, but not limited to, likely participation rates, participants' comfort with various investment vehicles and degree of risk, contribution levels, and the rate of account closures and rollovers.
 - ii. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- c. Financial Feasibility Study
- i. Assess whether the Program will be self-sustaining.
 - ii. Recommend the amount of funds necessary to implement the Program and the best means of financing.
 - iii. Recommend a cost and fee structure that ensures the Program is self-sustaining, simple to administer, and low-cost to participants.
 - iv. Submit a detailed report of the contractor's research, findings, analyses, conclusions, and recommendations.
- d. Reach out to stakeholders, (including employers, employees, and representatives of employer and employee groups). Assess their concerns and interests regarding the Program and advise whether an issue or feature must or should be incorporated in the Program design, market analysis, and/or financial feasibility study.
- e. Coordinate its work with the Board's other contractor(s) as appropriate or necessary.

EXHIBIT A

- f. Recommend and assist with drafting legislation and providing technical information or explanation to the California state legislature as may be advisable or required.
- g. Attend Board meetings (approximately one per month) and other meetings as requested.
- h. Submit a detailed Final Report of the contractor's research, findings, analyses, conclusions, and recommendations, incorporating the contractor's Program design, market analysis, and financial feasibility study work. The Final Report must also include the contractor's work in coordination with the Board's other contractor(s) and legislation recommendations as may be advisable or required.
- i. Contractor shall adhere to the Work Plan/Schedule attached hereto as Attachment A.1.

3. Amendments

The State at its sole discretion may extend the Agreement term for additional year(s). The State's option to extend the term of the Agreement may be exercised through one or more amendment(s) until the project is complete or the Program is implemented. The Agreement may be further amended at the State's sole discretion to adjust the scope of work due to legislative changes, federal requirements, or as otherwise necessary for the project or Program to meet statutory requirements. Although the total amount of the Agreement may be amended to compensate the Contractor for the change in scope of work or Agreement extension (total amount of all amendments, if any, shall not exceed 30% of the original total amount of the agreement), the rates will remain the same throughout the term of the Agreement.

4. Project Representatives

The project representatives during the term of this Agreement will be:

| State | Contractor |
|---|------------|
| Eric Lawyer, Acting Executive Director | |
| Phone: (916) 653-2995 | Phone: |
| Fax: (916) 653-3125 | Fax: |
| Email: Eric.Lawyer@treasurer.ca.gov | Email: |

The parties shall direct their inquiries to:

| State | Contractor |
|---|------------|
| Attention: Eric Lawyer, Acting Executive Director | Attention: |
| Address: 915 Capitol Mall, Rm. 110 Sacramento, CA 95814 | Address: |
| Phone: (916) 653-2995 | Phone: |
| Fax: (916) 653-3125 | Fax: |
| Email: Eric.Lawyer@treasurer.ca.gov | Email: |

EXHIBIT B

BUDGET DETAIL

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 rates specified in Attachment B.1, which is attached hereto and made a part of this Agreement. The Contractor's rates shall remain the same throughout the term of the Agreement, including any and all amendments to the Agreement.

However, travel costs will be paid based on 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 the State.

- B. Invoices shall be in detail and include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Eric Lawyer, Acting Executive Director
Secure Choice Retirement Savings Investment Board
915 Capitol Mall, Rm. 110
Sacramento, CA 95814

- C. Contractor shall submit a monthly Progress Report describing the work performed, work status, work progress difficulties encountered, remedial action, and statement of activity anticipated subsequent to the reporting period for approval prior to payment of invoices.
- D. Progress payments are permitted for work performed under this Agreement. In accordance with Public Contract Code section 10346, ten percent (10%) of the invoiced amount shall be withheld pending final completion of the Agreement, including the receipt, acceptance, and written approval by the State of the Final Report required under Exhibit A of the Agreement.

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.
- C. Notwithstanding paragraphs 2.A and 2.B above, SB 1234 provides the funding requirements that govern this Agreement. Therefore, this Agreement is subject to sufficient funding in accordance with SB 1234. It is mutually agreed that if funds for the current year and/or any subsequent years covered under this Agreement are not sufficient for the project or program, this Agreement shall be of no further force and effect. In this event, the Board shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement. The Board shall have the option to either cancel this Agreement with no liability occurring to the Board, or offer an agreement amendment to the Contractor to reflect the reduced amount.

3. Payment

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

EXHIBIT C

GENERAL TERMS AND CONDITIONS (GTC 610)

PLEASE NOTE: This page will not be included with the final agreement. The General Terms and Conditions (GTC 610) will be included in the agreement by reference to Internet site www.ols.dgs.ca.gov/Standard+Language/default.htm

EXHIBIT D

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 Paragraph 4 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 proposal or bid.

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.

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

EXHIBIT D

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 Paragraph 4 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 Paragraph 4 of Exhibit A.

Either party hereto may, from time to time by notice in writing served by mail or hand delivery upon the other as aforesaid, designate a different 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

EXHIBIT D

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. 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.

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.

EXHIBIT D

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
- 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.

EXHIBIT D

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 (excluding any Request for Proposal (RFP) or Invitation for Bid (IFB) and Contractor's proposal or bid); (iii) RFP or IFB if any; (iv) Contractor's proposal or bid 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 thirty (30) 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.

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.

EXHIBIT D

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).)

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).

EXHIBIT E

ADDITIONAL PROVISIONS

CONFLICT OF INTEREST: NO PROFIT

- A. Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest, and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement.
- B. Contractor shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.