

	State of South Carolina South Carolina Public Employee Benefit Authority Request for Proposal	Solicitation Number: PEBA0272019 Date Issued: 11/21/2019 Procurement Officer: Georgia Gillens, CPPO, CPPB Phone: 803.734.0010 Email Address: GGillens@peba.sc.gov

DESCRIPTION: Provide Third Party Recordkeeping, Administration and Associated Services for the State Optional Retirement Program

SUBMIT OFFER BY (Opening Date/Time): 01/03/2020 11:00 AM.

The Term "Offer" Means Your "Proposal". Your offer must be submitted in a sealed package. The Solicitation Number & Opening Date should appear on the package exterior. See the clause entitled "Submitting Your Offer or Modification."

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS: South Carolina Public Employee Benefit Authority P.O. Box 11960 Columbia, S.C. 29211-1960 Attention: Georgia Gillens, CPPO, CPPB	PHYSICAL ADDRESS: South Carolina Public Employee Benefit Authority 202 Arbor Lake Drive Columbia, S.C. 29223 Attention: Georgia Gillens, CPPO, CPPB
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AWARD & AMENDMENTS	Award will be posted on 01/22/2020 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: https://procurement.sc.gov/vendor/contract-ops/other-solicitations/peba
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You must submit a signed copy of this form with Your Offer. By submitting a proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of one hundred twenty (120) calendar days after the Opening Date. (See the clause entitled "Signing Your Offer.")

NAME OF OFFEROR <small>(Full legal name of business submitting the offer)</small>	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	
TITLE <small>(Business title of person signing above)</small>	STATE VENDOR NO. <small>(Register to obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
PRINTED NAME <small>(Printed name of person signing above)</small>	DATE SIGNED STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

OFFEROR'S TYPE OF ENTITY: (Check one) <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Other _____ <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Corporation (tax-exempt) <input type="checkbox"/> Government entity (federal, state, or local)	<small>(See "Signing Your Offer" provision.)</small>
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PAGE TWO
(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) _____ Area Code - Number - Extension Facsimile _____ Email Address
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PAYMENT ADDRESS (Address to which payments will be sent.) _____ Payment Address same as Home Office Address _____ Payment Address same as Notice Address (check only one)	ORDER ADDRESS (Address to which purchase orders will be sent) _____ Order Address same as Home Office Address _____ Order Address same as Notice Address (check only one)
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ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See the clause entitled "Amendments to Solicitation")

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT (See the clause entitled "Discount for Prompt Payment")	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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REQUEST FOR PROPOSAL (RFP)
SOLICITATION NUMBER PEBA0272019

**PROVIDE THIRD PARTY RECORDKEEPING, ADMINISTRATION, AND ASSOCIATED
SERVICES FOR THE STATE OPTIONAL RETIREMENT PROGRAM**

SCHEDULE OF KEY DATES IN THE PROPOSAL PROCESS
All dates subject to change

1. Distribution of the Request for Proposal (RFP)	11/21/2019
2. Deadline for Submission of Questions (10:00 a.m.)	12/03/2019
3. Pre-Proposal Conference (10:30 a.m.)	12/06/2019
4. PEBA's Written Responses to Questions Questions/Amendment Issued (tentative)	12/12/2019
5. Submission and Opening of Proposals (11 a.m.)	01/03/2020
6. Intent to Award Posting Date	01/22/2020
7. Intent to Award Becomes Official	02/03/2020
8. Contract Performance Date	07/01/2020

PART 1

INSTRUCTIONS TO OFFERORS-A. GENERAL INSTRUCTIONS

1.1 DEFINITIONS, CAPITALIZATION, AND HEADINGS: Clause headings used in this solicitation are for convenience only and shall not be used to construe meaning or intent. Even if not capitalized, the following definitions are applicable to all parts of the solicitation, unless expressly provided otherwise.

Amendment means a document issued to supplement the original solicitation document.

Authority means the State Fiscal Accountability Authority or its successor in interest.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

Change Order means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Contract See the clause entitled "Contract Documents & Order of Precedence."

Contract Modification means a written order signed by the Procurement Officer directing the Contractor to make changes which the clause of the contract titled "Changes," authorizes the Procurement Officer to order without the consent of the Contractor.

Contractor means the Offeror receiving an award as a result of this solicitation.

Cover Page means the top page of the original solicitation on which the solicitation is identified by number.

Offerors are cautioned that Amendments may modify information provided on the Cover Page.

Offer means the proposal submitted in response to this solicitation. The term Proposal is used interchangeably with the term Offer.

Offeror means the single legal entity submitting the offer. See the clause entitled “Signing Your Offer.”

Procurement Officer means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

Solicitation means this document, including all its parts, attachments, and any Amendments.

State means the South Carolina Public Employee Benefit Authority (PEBA).

Work means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor’s obligations under the Contract.

You and Your means Offeror.

1.2 AMENDMENTS TO SOLICITATION: (a) The solicitation may be amended at any time prior to opening. All amendments to this solicitation shall be in writing from the State. The State shall not be legally bound by any amendment which is not in writing. All actual and prospective Offerors should monitor the following web site for the issuance of amendments: <https://procurement.sc.gov/vendor/contract-opps/other-solicitations/peba> (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by acknowledging receipt in the Offeror’s Executive Summary, (4) by letter, or (5) by submitting a proposal that indicates in some way that the Offeror received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified by the amendment(s) remain unchanged.

1.3 AUTHORIZED AGENT (FEB 2015): All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

1.4 AWARD NOTIFICATION: Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the calendar day immediately following the seventh business day after such notice is given.

1.5 PROPOSAL AS OFFER TO CONTRACT: By submitting Your proposal, You are offering to enter into a contract with the South Carolina Public Employee Benefit Authority. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An offer may be submitted by only one legal entity; “joint bids” are not allowed.

1.6 PROPOSAL ACCEPTANCE PERIOD: In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. Otherwise, Your Offer remains valid until final award including through any periods consumed by protests.

1.7 BID IN ENGLISH & DOLLARS: Offers submitted in response to this solicitation shall be in the English language and in US dollars.

1.8 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008): Giving false, misleading, or incomplete information on this certification may render you subject to prosecution under Section 16-9-10 of the South Carolina Code of Laws and other applicable laws.

(a) By submitting an Offer, the Offeror certifies that-

(1) The prices in this Offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this Offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the Offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the Offeror's organization responsible for determining the prices being offered in this proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the Offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the Offeror's organization responsible for determining the prices offered in this proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the Offeror deletes or modifies paragraph (a)(2) of this certification, the Offeror must furnish with its Offer a signed statement setting forth in detail the circumstances of the disclosure.

1.9 CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004):

(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this Offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this Offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer, or his designee, if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer, or his designee, may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer, or his designee, may terminate the contract resulting from this solicitation for default without cost to the South Carolina Public Employee Benefit Authority or the State and the Contractor will be charged for the cost of replacement goods and services.

1.10 CODE OF LAWS AVAILABLE (JAN 2006): The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at: <http://www.scstatehouse.gov/code/statmast.php>. The South Carolina Regulations are available at: <http://www.scstatehouse.gov/coderegs/statmast.php>.

1.11 DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015): You warrant and represent that Your Offer identifies and explains any unfair competitive advantage You may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from Your participation in this competition or Your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If You have an unfair competitive advantage or a conflict of interest, the State may withhold award. Before withholding award on these grounds, an Offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, You represent that Your Offer identifies any services that relate to either this solicitation or the work that has already been performed by You, a proposed subcontractor, or an affiliated business of either.

1.12 DEADLINE FOR SUBMISSION OF OFFER: The South Carolina Public Employee Benefit Authority will receive sealed proposals until 3:00 p.m. local time on the opening date shown. To be timely filed, proposals and amendments thereto should be received by the time advertised for opening. It is the vendor's sole responsibility to ensure the South Carolina Public Employee Benefit Authority receives these documents. Offerors mailing proposals should allow a sufficient mail delivery period to ensure timely receipt of their proposal by the South Carolina Public Employee Benefit Authority. Any offer received after the Procurement Officer or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or South Carolina Public Employee Benefit Authority's mail room prior to the opening. [R. 19-445.2070(G)]

1.13 DRUG FREE WORK PLACE CERTIFICATION (JAN 2004): By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

1.14 DUTY TO INSPECT AND INQUIRE: Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation and will be implemented on time and performed satisfactorily over the entire term of the contract. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation in accordance with the terms of this Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation, or assumption it makes concerning the Solicitation, which Offeror does not bring to the State's attention pursuant to the terms of this Solicitation. By submission of a proposal, Offeror also certifies that its Offer has been reviewed by the appropriate individuals within the Offeror's organization and that the goods and services herein, if an award is made to that Offeror, can and will be provided on time and for the compensation proposed, subject to any negotiations that may affect the amount of compensation.

1.15 ETHICS CERTIFICATE (MAY 2008): By submitting an offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment of a former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by Contractor to candidate who participated in awarding of contract. The State may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If Contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, Contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.

1.16 OMIT TAXES FROM PRICE (JAN 2004): Do not include any sales or use taxes in Your price that the State may be required to pay

1.17 OPEN TRADE REPRESENTATION (JUN 2015): By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

1.18 PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015): Violation of these restrictions may result in disqualification of Your Offer, suspension or debarment, and may constitute a violation of law. (a) During the period between publication of the solicitation and final award, ***you must not communicate, directly or indirectly, with the South Carolina Public Employee Benefit Authority or its employees, agents or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer.*** All communications must be solely with the Procurement Officer. [R. 19-445.2010] (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. ***You represent that Your Offer discloses any gifts made, directly or through an intermediary, by You or your named subcontractors to or for the benefit of the South***

Carolina Public Employee Benefit Authority during the period beginning eighteen months prior to the Opening Date. [R. 19-445.2165]

1.19 PROTESTS (MAY 2019) If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest a solicitation, you must submit a protest within fifteen days of the date the applicable solicitation document is issued. To protest an award, you must (i) submit notice of your intent to protest within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled “Protest-CPO”. The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided. [02-2A085-2]

1.20 PUBLIC OPENING (JAN 2004): Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

1.21 QUESTIONS FROM OFFERORS: (a) Any prospective Offeror desiring an explanation or interpretation of the solicitation, specifications, etc. (see clause 1.14 above, “Duty to Inspect and Inquire”), must request it in writing. Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a solicitation will be furnished promptly to all other prospective Offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective Offerors. We will not identify you in our response to your question. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer as soon as possible regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. Offerors should advise the South Carolina Public Employee Benefit Authority of any problems they perceive as a result of reviewing this solicitation document, which may bear upon their ability to comply, or submit any other questions, which might ultimately bear upon the State’s ability to enter into the relationship described herein with a selected vendor.

1.22 REJECTION/CANCELLATION (JAN 2004): The State may cancel this Solicitation in whole or in part and may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065]

1.23 RESPONSIVENESS/IMPROPER OFFERS:

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Responsiveness. Any proposal deemed unacceptable pursuant to S.C. Regulation 19-445.2095 (I)(1)(c) and (J) will be rejected, such determinations to be discretionary and not disturbed unless arbitrary and capricious. The South Carolina Public Employee Benefit Authority may elect to conduct discussions, including the possibility of proposal revisions, but only for those proposals determined to be either acceptable or potentially acceptable pursuant to S.C. Regulation 19-445.2095 (I)(1)(a) and (b). Any such discussions shall be conducted in accordance with S.C. Regulation 19-445.2095 (I)(2), (3), and (4).

(c) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.

(d) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid.

(e) Do not submit bid samples or descriptive literature unless expressly requested. Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

1.24 SIGNING YOUR OFFER (JAN 2004): Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words “by its Partner,” and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (c) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent’s authorization to bind the principal.

1.25 STATE OFFICE CLOSINGS (JAN 2004): If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the South Carolina Public Employee Benefit Authority office by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule the proposal opening. If state offices are closed at the time a pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <http://www.scemd.org/planandprepare/disasters/severe-winter-weather>.

1.26 SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015): (An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word “CONFIDENTIAL” every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words “TRADE SECRET” every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word “PROTECTED” every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked “TRADE SECRET” or “CONFIDENTIAL” or “PROTECTED”, (2) agrees that any information not marked, as required by these instructions, as a “Trade Secret” is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror’s marking of documents, as required by these instructions, as being either “CONFIDENTIAL” or “TRADE SECRET” or “PROTECTED”. By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from

every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "CONFIDENTIAL" or "TRADE SECRET" or "PROTECTED". (All references to S.C. Code of Laws.)

1.27 SUBMITTING YOUR OFFER OR MODIFICATION: (a) All copies of the offer or modification, and any other documents required to be submitted with the Offer should be enclosed in a sealed, opaque envelope or package – (1) Addressed to the office specified on the Cover Page; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the Offeror. (b) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified on the Cover Page. (c) Facsimile or email offers, modifications, or withdrawals, will not be considered.

1.28 TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008): Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the Contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: S.C. Department of Revenue, Research and Review, Phone: 803.898.5786, Fax: 803.898.5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: 803.734.0657, Fax: 803.734.2498.

1.29 VENDOR REGISTRATION MANDATORY (JAN 2006): You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting Change Vendor Registration. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at <http://www.scbos.com/default.htm>.)

1.30 WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004): Offers may be withdrawn by written notice received at any time before the exact time set for opening. A proposal may be withdrawn in person by an Offeror or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

INSTRUCTIONS TO OFFERORS-B. SPECIAL INSTRUCTIONS

1.31 PRE-PROPOSAL CONFERENCE/SUBMISSION OF QUESTIONS

Any questions, comments, requests for information or clarifications regarding the RFP must be submitted in writing. Do not wait to assert deviations, exceptions, etc. to anything in this RFP until (or in) the submission of your proposal.

To have a meaningful discussion at the pre-proposal conference, all questions must be received by the Procurement Officer no later than **December 3, 2019, at 10 a.m.** local time. No further questions regarding the RFP will be accepted after this deadline.

Any written questions, requests for information, or request for clarifications will be responded to in the form of a written amendment to the RFP and emailed to all prospective Offerors. The amendment will also be posted at the following web address: <https://procurement.sc.gov/vendor/contract-ops/other-solicitations/peba>.

All questions, comments, and requests for information or clarifications regarding this RFP must be submitted as indicated below. All questions, comments, and requests for information or clarifications should, to the highest degree possible, cite the specific RFP section and paragraph number(s) to which the question refers. All questions, comments, and requests for information or clarifications regarding this RFP should include the identity of the sender, firm name, mailing address, telephone number, and email address. Email is the preferred method for submitting questions, with "Questions: Provide Third Party Recordkeeping, Administration and Associated Services for the State Optional Retirement Program RFP" as the subject of the email. Submit questions in an easily copied format such as MS Word.

Mark envelopes on questions mailed: QUESTIONS

Title: Provide Third Party Recordkeeping, Administration and Associated Services for the State Optional Retirement Program

Attn: Georgia Gillens, CPPO, CPPB

SEND QUESTIONS TO:

MAIL TO:

South Carolina Public Employee Benefit Authority
202 Arbor Lake Drive
Columbia, SC 29223
Attention Georgia Gillens, CPPO, CPPB

HAND DELIVER/EXPRESS

South Carolina Public Employee Benefit Authority
202 Arbor Lake Drive
Columbia, SC 29223
Attention Georgia Gillens, CPPO, CPPB

EMAIL ADDRESS:

GGillens@peba.sc.gov

1.32 CONTENTS OF OFFER (FEB 2015): (a) Offers should be complete and carefully worded and should convey all of the information requested. (b) Offers should be prepared simply and economically, providing a straightforward, concise description of Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. (c) The contents of Your Offer should be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume. (d) If Your Offer includes any comment over and above the specific information requested in the solicitation, you should include this information as a separate appendix to Your Offer. Offers that include either modifications to any of the solicitation's contractual requirements or an Offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

1.33 OPENING PROPOSALS – INFORMATION NOT DIVULGED (FEB 2015): Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. In competitive sealed proposals, neither the number, identity of Offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)]

1.34 PROTEST - CPO - MMO ADDRESS: Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to: protest-mmo@mmo.state.sc.us, or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

1.35 UNSUCCESSFUL OFFERORS: Offerors not awarded a contract under this solicitation may request return of their proposals within 30 calendar days after the notice of intent to award becomes the final statement of award. All cost of returns will be paid by the Offeror. Thirty (30) calendar days after the notice of intent to award becomes the final statement of award all materials submitted by firms not awarded a contract may be destroyed.

1.36 RELEASE OF CLAIMS: With the submission of a proposal, each Offeror agrees that it will not bring any claim or have any cause of action against the South Carolina Public Employee Benefit Authority based on any misunderstanding, failure by the South Carolina Public Employee Benefit Authority to properly convey the information, or failure by the South Carolina Public Employee Benefit Authority to provide the Offeror with pertinent information as intended by the RFP. Additionally, the Offeror, its officers, agents, or representatives waive and release the South Carolina Public Employee Benefit Authority and each and any entity, person, or other source providing any information concerning the Offeror, of any and all claims of any sort or variety whether in tort, contract or otherwise, whether known or unknown, regarding the Offeror's or subcontractor's past performance, products, services, personnel, reputation or its Subcontractors or any other information sought or obtained by the South Carolina Public Employee Benefit Authority, whether or not the information is relied on by the South Carolina Public Employee Benefit Authority. The Offeror agrees that it will assert no claims for proposal preparation costs arising from a protest, action or claim arising from the solicitation or award.

1.37 DISCUSSIONS AND NEGOTIATIONS (FEB 2015): Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the South Carolina Public Employee Benefit Authority may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. If improper revisions are submitted during discussions, the South Carolina Public Employee Benefit Authority may elect to consider only your unrevised initial proposal, provided your initial offer is responsive.

The South Carolina Public Employee Benefit Authority may also elect to conduct negotiations as provided in Section 11-35-1530.

PART 2

SCOPE OF PROPOSAL

It is the intent of the State of South Carolina, South Carolina Public Employee Benefit Authority (PEBA), in accordance with all requirements stated herein or attached hereto, to solicit proposals and to contract with qualified firms to provide third party recordkeeping, administration, and associated services for the State Optional Retirement Program (Program).

PEBA is seeking four Contractors to provide the services outlined in this Request for Proposal in accordance with State of South Carolina statute. Contractors will be considered designated service providers as defined by the Program's Plan Document, and there are currently four designated service providers contracted to serve the Program.

2.1 Background

Effective July 1, 2000, the State of South Carolina enacted legislation establishing a defined contribution State Optional Retirement Program (Program). Statutory provisions for the Program may be found in Title 9, Chapter 20 of the South Carolina Code of Laws. The Program meets the requirements for tax-favored treatment under the Internal Revenue Code of 1986 as amended.

Participation in the Program is available to employees of the State of South Carolina, as well as those of public school districts and public colleges and universities within the State of South Carolina. Unless an eligible employee elects to join the Program within 30 days of being hired, he will become a member of the South Carolina Retirement System (SCRS) defined benefit plan by default.

A Participant of the Program (Participant) must also elect a designated service provider upon enrollment, and mandatory employee and employer contributions to the Program are set by statute to equal those of SCRS members. The employee contribution, which is currently capped at 9 percent of earnable compensation, and a portion of the employer contribution currently equal to 5 percent of the employee's earnable compensation are deposited into the Participant's account with the designated service provider. By statute, the remaining portion of the employer contribution is remitted directly to PEBA and a portion of these contributions may be used to defray expenses of the Program.

A Participant may change his designated service provider during the open enrollment period each year (January 1 to March 1). If a Participant changes from one designated service provider to another during the open enrollment period, he is not required to transfer his assets. Therefore, it is possible for a Participant to have Program assets with more than one designated service provider. However, a Participant may only contribute to a single designated service provider at any given time. A Participant may elect to irrevocably join SCRS during the open enrollment period if, at any point during that open enrollment period, he has at least 12 months, but no more than 60 months, of participation in the Program. If a Participant elects to join SCRS during an open enrollment period, the change is applied on April 1 of the same year.

By statute, the Program is required to have no fewer than four designated service providers. As of June 30, 2019, there were 236 employers whose employees are eligible to participate in the Program. Total assets in the Program were approximately \$2.7 billion on June 30, 2019. There were 54,184 accounts in the Program across all designated service providers as of the same date. Of the total assets, approximately \$311.5 million is invested in annuity contracts that prohibit immediate liquidation. These assets may become more liquid over time as termination and liquidity provisions allow. Refer to the Program Investment Review for more details.

PEBA has contracted with a co-fiduciary investment consultant that is responsible for evaluating the Program's core investment options. This consultant also assists PEBA with consolidated reporting and other special projects as requested.

The following exhibits are for reference only:

- Exhibit 1: Program Statistics
- Exhibit 2: Program Investment Review
- Exhibit 3: Program Investment Policy Statement
- Exhibit 4: Program Plan Document
- Exhibit 5: Program Asset Mapping Procedure
- Exhibit 6: Program Enrollment File Format
- Exhibit 7: Program Payroll Data Interchange Format

2.2 Investment Structure

All investment options shall comply with the provisions of the Program's Investment Policy Statement (IPS). Currently, the IPS allows designated service providers to offer no more than 16 core investment options. Refer to the "Investment Options" section of the IPS for further details, including a listing of approved asset classes.

PEBA reserves the right, at its sole discretion, to add to, replace, or remove any of the investment options. Accordingly, an Offeror should not rely on revenues generated from particular proprietary or non-proprietary investment options when determining its proposed fees.

All investment options that are available to receive contributions shall be fully liquid (i.e., available within five business days) at the Participant level. This requirement pertains to transfers between these options, as well as distributions or rollovers out of the Program. Investment options with multi-term payout schedules, lock-ups, or any other form of withdrawal restrictions at the Participant level are prohibited. However, if market conditions dictate, Contractors and the State may implement mutually agreeable transfer restrictions as deemed necessary.

Offerors shall complete Attachment 7, which describes its proposed investment menu.

2.3 Goals and Objectives

For a program of this size to be successful, an administrative process, including assistance with enrollment and education, must be in place to address the needs of all eligible employees. Contractors are expected to actively manage all activities related to this process to ensure maximum effectiveness of the Program.

Contractors are also expected to perform accurate and timely recordkeeping services and administer the Program within pre-described service standards. PEBA is seeking a contractor with the following characteristics.

1. Focus on Quality and Consistency of Service Delivery:
 - Adheres to successful quality assurance procedures.
 - Follows a successful problem resolution methodology.
 - Performs services accurately and on a timely basis.
 - Provides accurate and consistent responses to inquiries.
 - Measures and maintains a high level of customer satisfaction.

2. Proactive Approach:

- Develops and implements a plan that addresses Participant education and service enhancements with clear and concise objectives, timetables, and benchmarking methodology.
- Educates Participants by providing informed service representatives and Participant-friendly communications.
- Provides on-site visits to participating employers for Participant enrollment and group meetings.
- Develops strong working relationships with benefits staff of participating employers to maximize opportunities for employee and employer education.
- Provides Participants with comprehensive retirement planning and investment education services.
- Provides comprehensive plan sponsor education opportunities on a regular basis.
- Places emphasis on measuring and helping to improve Participant retirement awareness.

3. Commitment to Technology Development:

- Values information technology security and the protection of Participant information.
- Invests continuously in technology.
- Provides access to cutting edge technological enhancements.
- Demonstrates improvements (e.g., accuracy, timeliness) in client service through technological enhancements.

PART 3

SCOPE OF WORK

Four Contractors shall provide services to include recordkeeping/administration, communication/education, custodial trustee services and investment management services for the Program, in accordance with all requirements outlined in this Request for Proposal (including all attachments) and the Offeror's response thereto.

PEBA is seeking proposals that comply with each of the requirements described in Part 3, Scope of Work, Sections A through G below. PEBA considers any proposal unacceptable that provides any deviations from, or caveats to, Part 3, Scope of Work, Sections A through G below. As a result, any item any Offeror would like to modify, seek clarifications on, or request any other deviation from, however modest, MUST be presented during the question and answer phase for PEBA to consider and determine before the submission date for all proposals, so that all Offerors will have a common and uniform basis upon which to submit their proposals.

Contractors shall provide, at a minimum, the following material and essential requirements for the Contract term, without deviation or modification, subject to any modifications that may be issued in an Amendment to the Request for Proposal by PEBA resulting from the question and answer phase.

A. Custodial Trustee and Investment Management Services

1. Contractors shall be able to provide custodial trustee services for the Program.
2. Contractors shall offer all Participants a diverse array of investment options in accordance with the Program's Investment Policy Statement (IPS). Contractors shall notify Participants of any changes to investment options as directed by PEBA.
3. Contractors shall deduct all relevant Program fees, including administrative and investment advice fees, from participant accounts on a quarterly basis.

4. As soon as administratively practicable, Contractors shall return to the Program all 12b-1 fees and other forms of shared revenue generated from the investment options. This revenue should be rebated back to appropriate Participants.
5. PEBA reserves the right, at its sole discretion, to add to, replace, or remove any of the investment options. Accordingly, an Offeror should not rely on revenues generated from particular proprietary or non-proprietary investment options when determining its proposed fees.
6. All investment options that are available to receive contributions shall be fully liquid (i.e., available within five business days) at the Participant level. This requirement pertains to transfers between these options, as well as distributions or rollovers out of the Program. Investment options with multi-term payout schedules, lock-ups, or any other form of withdrawal restrictions at the Participant level are prohibited. However, if market conditions dictate, Contractors and the PEBA may implement mutually agreeable transfer restrictions as deemed necessary.

B. Recordkeeping, Administrative, and Participant Services

1. Contractors shall generally deal directly with all participating employers and Participants.
2. PEBA will provide Contractors with enrollment details for employees who elect to participate in the Program. Contractors are expected to receive and process the enrollment file that is provided by PEBA through a Secure File Transfer Protocol (SFTP) server. Contractors are further expected to establish an account in the name of those for whom they receive enrollment details and to reach out to those new enrollees to explain the additional steps needed to properly establish their Program account with the Contractor.
3. Contractors shall process received contributions, monitor compliance, and process Participant transactions daily as well as provide timely and accurate Participant and plan-level statements. Contractors shall provide custom reports and data as requested by PEBA.
4. Contractors shall accommodate multiple payroll locations, various transmittal methods (to include paper format), and several different payroll frequencies. The State of South Carolina Comptroller General's Office consolidates payroll for approximately 85 participating employers and submits the remittance file and contributions electronically to the current contractors on a semi-monthly basis. Other participating employers submit remittance files and/or contributions electronically, but many provide them in paper format.
5. Contractors shall have a toll-free customer service call center, automated voice response system, and website services that allow Participants access to their Program accounts.
6. Contractors shall provide industry-standard data encryption and a secure method for participating employers to submit and receive payroll data. PEBA and its designees shall have the ability to search for and view Participant account information via the plan sponsor website without first having to identify the Participant's employer.
7. Contractors shall not require the signature of PEBA or the Participant's employer to process distribution or rollover requests. Information necessary to process such requests in accordance with IRS and Plan document regulations shall be provided to the Contractor under the verification process established by PEBA.
8. Contractors shall have adequate procedures in place to follow up on outstanding checks and other uncompleted distributions to ensure that distributions are properly made in accordance with the Program's

plan document, IRS guidance, and any other instructions from PEBA regarding locating and making distributions to missing Participants.

9. Contractors shall provide a Form 1099-R for all distributions and shall provide administration under Section 401(a)(9), required and minimum distributions, including forcing out required minimum distributions as directed by PEBA.
10. Contractors shall accept dates of death as provided by PEBA, update accounts accordingly, and ensure that distributions are properly made in accordance with the Plan Document, IRS guidance, and any other instructions from PEBA regarding making distributions of death claims.
11. Contractors shall provide complete review, approval, and administrative services related to Qualified Domestic Relations Orders (QDRO).
12. Contractors shall comply with the Program's Plan Document and regulatory provisions, including but not limited to changes to the Internal Revenue Code.
13. Contractors shall provide for necessary changes to recordkeeping and administrative processes because of changes in State of South Carolina and Federal legislation and regulation.
14. Contractors shall assist Participants with transferring their Program account assets to purchase service in the SCRS defined benefit plan. Transfer requests should be processed upon receipt of participant-authorized pre-approval letter from PEBA's Retirement Financial Services department. Contractors shall not require additional signatory approval to process such transfer requests. Contractors shall not assess an additional fee or penalty for this service.
15. Contractors shall be solely liable and responsible for any processing errors caused by it or its agents and shall provide reimbursement for any losses that occur due to such errors.
16. Contractors shall ensure that all returned mail related to Participants goes to the Contractor and not to PEBA or participating employers. For returned mail where a forwarding address is provided, Contractors should have additional procedures in place to follow up with the Participant to determine the validity of the new address.
17. Contractors shall make investment advice, including a managed account service, available to all Participants. All Program fees, including administrative and investment advice fees, shall be explicitly listed on quarterly Participant statements.

C. Communication, Training, and Enrollment Services

1. Contractors shall furnish communication information on the Program to Participants and participating employers. Communication materials should describe the features, operations, and any changes regarding the Program to increase awareness of the Program's benefits.
2. Communications with PEBA, Participants and participating employers will be undertaken to ensure that electronic data transfer, fax, telephone, and hard copy transfer of information are accurate and efficient, as determined by PEBA.
3. Contractors shall provide enrollment counseling in person, by email, or by phone. Contractors shall provide Participants and their employers with enrollment kits upon request. Enrollment kits, as well as any other

communication materials and forms distributed in accordance with this Contract, are subject to prior approval by PEBA. In addition, any modifications to these materials are subject to prior approval by PEBA.

4. Contractors shall provide a comprehensive communication and education program that provides Participants with the education, guidance, and tools necessary to make informed decisions regarding their Program accounts. Communication and education programs are to be supported by field service representatives, who are available between the hours of 8:30 a.m. and 5 p.m. Eastern time on all State business days, as well as a comprehensive, Program-specific website that provides Participants with interactive financial and retirement planning tools. Contractors shall emphasize the importance of improving Participant retirement awareness and promoting positive long-term outcomes.
5. Contractors shall maintain, at a minimum, a secure, password-protected, transaction-enabled website that Participants may use to manage their Program account.
6. Contractors shall provide a website that is accessible without entering a password that includes information specific to the Program benefits and features. The website shall explain the benefits and value of participating in the Program. Website shall also provide general resources and information to promote retirement awareness. Website content must be reviewed and approved by PEBA prior to use.
7. Contractors shall develop and distribute approved participant account-specific communications materials and items. Information specific to a participant's account shall be printed and mailed to the participant's address on file unless the participant has opted for paperless delivery. These include but are not limited to: notification of Program selections and changes to Participants. Notices and materials must be reviewed and approved by PEBA prior to use.
8. Contractors shall not conduct any mass paper or electronic mailings to enrolled Participants, eligible employees, participating employers, or other benefits personnel without the prior express permission of PEBA.
9. Contractors shall provide materials and an adequate number of their personnel as needed to train participating employers and PEBA personnel about the Program and the Contractors' operational procedures including, but not limited to:
 - a. How to transmit contributions and remittance files;
 - b. How to navigate the plan sponsor website; and
 - c. How to comply with administrative procedures and regulatory requirements.
10. Contractors shall provide training and educational sessions upon PEBA or employer request at PEBA and various employer sites statewide or presented over the internet (e.g., webinars).
11. In the event a new entity joins the Program, Contractors shall supply their personnel and the materials needed to assist in the entity's setup at the request of PEBA or the new entity. All materials and training items distributed to participating employers by Contractors are subject to prior approval by PEBA.
12. Contractors shall provide personnel at PEBA's annual Benefits at Work Conference, which is typically held over a multi-day period each year in August/September, beginning in August 2020. Approximately 300 benefits administrators and other essential benefits personnel attend each day. Traditionally, the conference has been held in Columbia, South Carolina; however, Contractors are required to provide personnel at the conference regardless of the in-state location and dates. PEBA's Contractors are responsible for hosting a table each day of the conference, providing printed promotional and educational materials, answering questions from participating employers and PEBA staff, and engaging with those in attendance at the

conference. All information and materials to be distributed by Contractors at the conference must be approved in advance by PEBA.

13. Contractors shall conduct an annual Customer Satisfaction Survey for Participants and an annual Customer Satisfaction Survey for participating employers to gauge satisfaction with the Contractor. The Customer Satisfaction Survey must be approved by PEBA prior to distribution. Results must be submitted to PEBA.
14. Contractors' representatives who are serving the Program shall have no financial incentives to promote specific investment products or services. Contractors and their representatives shall not directly solicit, or use any information obtained under this Contract, to directly solicit Participants with respect to any products or services outside the scope of this Contract.

D. Reporting and Plan Sponsor Services

1. Contractors shall participate in monthly calls to discuss the status of any open Participant or employer issues, Program initiatives, or educational/marketing campaigns. Contractors shall plan for one of these meetings to encompass an annual plan review and strategic planning meeting with PEBA.
2. Contractors shall provide PEBA and/or its investment consultant with all data necessary to properly evaluate and monitor the performance of the Program's investment options as well as educate Participants on the investment options and fees associated with each Contractor.
3. Contractors shall provide PEBA with a report for the June and December quarters that includes comprehensive details and statistics to assist in monitoring Program performance. PEBA staff should have the opportunity to review the materials prior to issuance.
4. Contractors shall plan to attend, if requested, up to four meetings per year at PEBA's office in Columbia, SC.
5. Contractors shall provide PEBA and/or its investment consultant with all data necessary to carry out consolidated reporting, retirement awareness studies, and other special projects as requested by PEBA.
6. Upon request, Contractors shall provide PEBA with any available Participant information that was collected in the administration of the services outlined in this Request for Proposal, and PEBA may use this information as if it had been collected by PEBA.

E. Other Requirements

1. If requested, Contractors shall supply Program-related information to PEBA and its consultants, attorneys, auditors, and other designees. With reasonable notice, Contractors shall provide access to parties authorized by PEBA to perform audits or reviews.
2. Contractors shall provide PEBA with a detailed transition plan within 20 business days of the date the award becomes effective, along with written materials to explain Program changes and enhancements.

F. Performance Standards and Guarantees (Liquidated Damages)

1. The Contractor shall adhere to the set of proposed performance standards and guarantees (liquidated damages) outlined in its proposal response to ensure timeliness and accuracy in the following areas:
 - Customer satisfaction; and
 - Implementation.
2. The Contractor shall provide, on a quarterly basis, reports that will confirm compliance or non-compliance with each of their proposed performance standards. These reports shall be submitted to PEBA's Procurement Officer.
3. Performance Guarantees will continue to apply during the transition period.

G. Duty of Confidentiality

1. The Contractor shall keep confidential all information and material which has or will come into its possession or knowledge in connection with the performance of services under this Contract; and shall not release, use or disclose any such information without prior written consent of PEBA. The Contractor shall comply with all State and Federal laws and regulations concerning the confidentiality of records, including, but not limited to, the Privacy Act of 1974.

PART 4

QUALIFICATIONS

4.1 QUALIFICATIONS OF OFFEROR: (1) To be eligible for award, You must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security (e.g., letter of credit, performance bond, parent-company corporate guaranty) that you offer to provide. Instructions and forms to help assure acceptability are posted at <http://procurement.sc.gov/>, Legal, "Standard Clauses & Provisions."

Provide the following information or documentation for the Offeror. This information, and other information in PEBA's discretion, will be used to determine your responsibility:

- (a) Your most current financial statement, financial statements for your last two fiscal years, and information reflecting your current financial position. If you have audited financial statements meeting these requirements, you must provide those statements.
- (b) A list of failed projects, suspensions, debarments, and significant litigation.
- (c) Most current Service Organization Controls (AICPA SOC 1 (Type 2)) report.

4.2 MANDATORY MINIMUM QUALIFICATIONS

For an Offeror to be considered for an award, it must demonstrate that it, or its subcontractor/affiliate, possesses, as of the date of proposal submission, all of the following minimum qualifications. An Offeror may meet the requirements described in Part 4.2, Mandatory Minimum Qualifications, through a contractor/subcontractor or contractor/affiliate arrangement.

1. Offerors must certify that they are a qualified firm to provide administrative services pursuant to Section 401(a) of the Internal Revenue Code (Code) and all rules and regulations of the State of South Carolina.
2. Offerors must offer bundled administrative services (i.e. recordkeeping/administration, communication/education, custodial trustee services, and participant investment advisory services) as well as an open architecture investment platform.
3. Offerors must be able to accept payroll files from a minimum of 152 different payroll centers across the State.
4. Offerors must have at least five years' experience providing the products and services outlined in this Request for Proposal to public sector defined contribution clients.
5. Offerors must have a minimum of \$3 billion in assets under administration for public sector defined contribution plans.
6. Offerors must have at least three public sector defined contribution plan accounts, each with 10,000 or more participants.
7. Offerors must have provided custodial trustee services to defined contribution plans for at least five years and have a minimum of \$5 billion under custody.

Any Offeror not meeting these requirements will not be considered for award, and therefore will not be evaluated. In its proposal, each Offeror shall respond to this section and declare whether it meets the requirement and, if so, provide detailed specifics that satisfy that requirement.

PART 5

INFORMATION FOR OFFERORS TO SUBMIT

Proposals will be accepted only from the entity that will be providing the services hereunder. **Offerors shall submit a signed transmittal sheet indicating that it has submitted the following:**

- a. Please include Offeror's name, the solicitation number, and the appropriate title on the label for hard copies and for USBs submitted in response to this RFP. (i.e. Acme Corp., PEBA0272019, Technical Proposal Original; Acme Corporation, PEBA0272019, Business Proposal Original; Acme Corporation, PEBA0272019, Copy 1 of 5,)
- b. One (1) original and five (5) identical paper copies of the Offeror's Technical Proposal. Please label copies, 1 of 5, 2 of 5, etc.
- c. One (1) original marked and five (5) labeled USB flash drives containing a copy of the Offeror's Technical Proposal Response (in MS Word, MS Excel and/or PDF format where appropriate). Please label copies, 1 of 5, 2 of 5, etc.
- d. One (1) original and one (1) paper copy of the Offeror's Business Proposal.
- e. One (1) labeled USB flash drives containing a copy of the Offeror's Business Proposal.
- f. One (1) USB flash drive containing a redacted version of the Offeror's original Technical Proposal.
- g. One (1) USB flash drive containing a redacted version of the Offeror's original Business Proposal

The Technical Proposal and the Business Proposal may be submitted together under one cover; however, each must be marked respectively with “Section 5.1: Technical Proposal” and “Section 5.2: Business Proposal.”

Offerors are required to mark the original copy of their offer to identify any information that is exempt from public disclosure. Offerors must do so in accordance with the clause entitled “Submitting Confidential Information.” In addition, Offerors should also submit one USB flash drive of their offer from which they have removed any information that they marked as exempt (i.e., a redacted copy). The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on a USB flash drive. File format shall be Microsoft Word 2007 or later. Except for the redacted information, the USB flash drive must be identical to the original hard copy and accessible for reproduction by PEBA.

5.1 TECHNICAL PROPOSAL

The Technical Proposal shall include the following sections and shall be presented in the listed order. Offerors should submit the following information for purposes of evaluation. The South Carolina Public Employee Benefit Authority desires a detailed written submission to make an accurate comparison of all proposals received. Please be specific in your answers. The Proposal should include all of the following sections and should be presented in the listed order:

5.1.1 COVER PAGE

Offerors must submit a signed copy of the cover page (page one) with their offer. By submitting a proposal, Offeror agrees to be bound by all of the terms of the Solicitation. Offerors agree to hold their offer open for a minimum of 120 calendar days after the Opening Date.

5.1.2 EXECUTIVE SUMMARY

An Executive Summary should be provided with the Offeror’s Proposal. The Executive Summary should bear the name and address of the Offeror, the title of this Request for Proposal, and acknowledgement of the receipt of any amendments. The Executive Summary should include a brief description of the Offeror’s understanding of the scope of services to be provided and be signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this Request for Proposal.

Statement of Acceptance: Offerors shall reply to Part 1 Instructions to Offerors-A. General Instruction, Part 1 Instructions to Offerors-B. Special Instructions, Part 2 Scope of Proposal, Part 3 Scope of Work, Part 4 Mandatory Minimum Qualifications, Part 7 Terms and Conditions-A. General, and Part 7 Terms and Conditions-B. Special, by declaring that the Offeror fully understands, agrees to, and will comply with all of the provisions/requirements/terms in each of these Parts. Offerors should include this Statement of Acceptance in their Executive Summary. Please note that PEBA considers unacceptable any proposal containing deviations, exceptions, or caveats to the RFP that have not been submitted for consideration during the question and answer phase and adopted by PEBA.

Mandatory Minimum Qualification: Offerors should provide detailed information to establish that the Offeror meets the mandatory minimum qualifications outlined in Part 4, Mandatory Minimum Qualifications. Offerors should include this detailed information in their Executive Summary. Any Offeror not meeting the Mandatory Minimum Qualifications will not be considered for award, and therefore will not be evaluated.

5.1.3 TABLE OF CONTENTS

The Proposal should include a Table of Contents that lists page number references. The Table of Contents should be in sufficient detail to facilitate easy reference to the sections of the Proposal and separate attachments that shall be included in the main Table of Contents. If supplemental materials are included with the Proposal, each copy of the Proposal must include such supplemental materials. Supplemental information (i.e., information not required) and attachments included by the Offeror should be clearly identified in the Table of Contents and provided as a separate section.

5.1.4 SUBCONTRACTORS AND AFFILIATES

Offerors may utilize the service(s) of an affiliate or a subcontractor to perform services/requirements outlined in this Request for Proposal. If the Offeror's services provided for hereunder include services, equipment, or materials supplied by an affiliate, the affiliate shall be within the Offeror's controlled group and the Offeror, if awarded a contract, must act as the Contractor and shall assume full responsibility for any affiliate's performance.

If the Offeror's services provided for hereunder include services, equipment, or materials supplied by a subcontractor, the Offeror, if awarded a contract, must act as the Contractor and assume full responsibility for any subcontractor's performance. Contractors will be considered the sole point of contact regarding all situations, including payment of all charges and the meeting of all requirements.

Offerors utilizing the services of an affiliate or a subcontractor to perform services/requirements outlined in this Request for Proposal should complete Attachment 6, Subcontractor/Affiliate Information. Attachment 6 should be completed for each subcontractor/affiliate proposed to perform any of the requirements of this contract. All subcontractor arrangements must be finally established and all contracts negotiated with subcontractors/affiliates prior to submission of proposals. Following submission of proposals and prior to award, copies of all subcontractor contracts may be requested for review by South Carolina PEBA.

If the Offeror or any subcontractor/affiliate arrangement(s) necessitate an additional administrative agreement or procedural document to be signed by PEBA, Offerors should provide copies of all of the necessary documents, or at a minimum a sample of the documents, in their proposal response. **Please note: Administrative agreements not submitted with your response may not be accepted after award.**

5.1.5 OFFEROR'S TECHNICAL PROPOSAL RESPONSE

Offerors should provide a detailed response to each of the questions/sub-questions below. Please be specific in your response. Please list the question as stated below with your response immediately following the question.

I. Organization and Company History

1. Offerors should provide a brief overview of their organization. The narrative should include the following:
 - a. Date established;
 - b. Ownership (public, partnership, subsidiary, etc.);
 - c. Years active in the public defined contribution market;
 - d. Years active in the public 401(a) market; and
 - e. Relationships with other entities relevant or related to the subject matter of this Request for Proposal.
2. Offerors should provide the following information:
 - a. Total assets under administration;

- b. Total defined contribution assets under administration;
- c. Total public sector defined contribution assets under administration; and
- d. Total 401(a) assets under administration.

3. List your top 10 clients by total plan assets.
4. What are your client retention statistics for each of the last three years broken out by year? What percentage left due to issues pertaining to services provided by your company?
5. What is your average client relationship duration? What is the average relationship duration for your public sector clients?
6. Provide the number of public sector 401(a) plans you have gained and lost in the last three years by completing the chart below.

	2019		2018		2017	
	Gained	Lost	Gained	Lost	Gained	Lost
Public 401(a)						

7. Provide a representative list of your public sector defined contribution clients by completing the chart below.

Client Name	Total Participants	Total Assets	Length of Relationship

8. List the number and total assets of the public sector defined contribution plans you currently administer by completing the chart below.

Number of Participants	Plans		Assets	
	Number	Percentage	Amount	Percentage
Less than 5,000				
5,001 – 10,000				
10,001 – 20,000				
More than 20,000				
Total				

9. What is the total number of participants in all public sector defined contribution plans currently administered by your organization?
10. Describe your experience in providing 401(a) administration services to similar governmental clients.
11. Describe your errors and omissions liability insurance and coverage. Describe the various types of insurance coverage and indemnification provided to protect clients.
12. Has your organization, or any affiliates, been a party to any litigation during the last three years involving your organization’s defined contribution recordkeeping and administration services? If so, provide: 1) the

nature of the claim or action, 2) the current status of the litigation, and 3) any judgments, fines or settlements paid.

13. What is the last date when your organization had a change in its business structure, whether through an acquisition or divestiture or through an alliance arrangement? If applicable, how did this change in business affect the recordkeeping division?
14. Describe any pending or anticipated plans to re-organize your organization within itself or as part of the larger organization of which their company is a part. Also describe any pending or anticipated plans to consolidate or merge with any other company.

II. References

1. Provide references for three current public sector clients whose plan demographics are most like the Program (e.g., plan size, plan design). If available, at least one of these three clients should have converted within the last year.

For each reference, provide:

Client name	
Contact name	
Phone number	
E-mail address	
Services provided	
Year becoming a client	

2. Provide references for three former clients whose plan demographics are most like the Program (e.g., plan size, plan design). If available, at least one of the three clients should have left within the last year.

For each reference, provide:

Client name	
Contact name	
Phone number	
E-mail address	
Services provided	
Year they left	
Reason for leaving	

III. Client Service and Quality Assurance

1. How many total employees work on defined contribution retirement plans? Provide the employee breakdown by completing the chart below.

Personnel Type	Number
Management	
Call Center Management/Supervisors	
Customer Service Representatives	
Communications	
Field Representatives	
Systems Management	
Systems Staff: Development and Operating/Maintenance	
Website	
Other*	

* Specify types of employees listed above as Other.

2. List the average tenure in years of the following positions in your company:
 - a. Client Service Manager;
 - b. Client Relationship Manager;
 - c. Field Service Representatives;
 - d. Communications Lead;
 - e. Conversion Project Manager; and
 - f. Call Center Customer Service Representatives.

3. Does your company currently have staff located in South Carolina? If yes, where is your office located? If no, where is the closest office?

4. Describe the team that would work directly with the PEBA on an ongoing basis. Indicate staff size, experience, and turnover rates. In addition, provide a brief resume for each individual.

5. Will you need to hire additional staff to administer this contract for the Program? If so, provide the number of additional staff required by job title and function.

6. What is the number of account relationships for each member of the proposed service team?

7. What location(s) will provide the services described in this Request for Proposal?

8. Describe the training program and licensing requirements for the field service representatives.

9. Describe the training program and licensing requirements for the call center customer service representatives.

10. List the common topics and issues when training benefit and payroll staff of participating employers. Is training available through webinars or on-demand learning online?

11. Complete the chart below regarding service standards and turnaround time, and any associated guarantees.

Transaction	Turnaround time	Guarantee amount for not meeting standard
Issuance of participant statements		
Transaction confirmation statements		
Plan-level administrative reports (hard copies)		
Payroll contribution processing		
Termination/rollovers/direct transfers for distribution		
Fund balance transfers		
Investment election requests		
Required minimum distribution processing		
Death claim processing		
QDRO Processing		

12. Confirm you will conduct client, participant and participating employer satisfaction surveys of your services and performance. Who will conduct the surveys?

13. What corrective measures or actions steps do you perform to address client, participating employers and participants who are not satisfied with your performance?

14. Do you provide participants protection against unauthorized access to their accounts? Briefly describe the protection and any qualifications for such protection. Include in your response your process for indemnifying the participant and the timeframe involved with each step in the process.

IV. Recordkeeping and Administration

1. What percentage of your company's expenses is related to recordkeeping?

2. What percentage of your company's expenses is related to system technology development?

3. Do you provide an administrative/ procedures manual for participating employers that includes a timeline of critical dates, roles, and responsibilities?

4. Confirm you will customize administrative forms used by the Program. Describe the level of customization allowed.

5. Confirm your ability to accept from PEBA a daily enrollment file in the format reflected in Exhibit 6. Confirm you will establish an account in the Participant's name following receipt of the enrollment file and reach out directly to the Participant with instructions regarding the additional steps necessary to complete his account establishment (investment option selection and beneficiary designation).

6. Confirm you will be able to handle the high volume of payroll reconciliations required to serve the Program. Describe your process for auditing payroll detail to funds received by individual participating employer. Describe your administrative process for identifying incomplete or missing data and correcting the data.

7. Can you accept manual edits, adjustments, and indicative data changes to the contribution input file?

8. Describe your recordkeeping and administrative capabilities for handling negative data on payroll files due to correction of a previously remitted contribution.

9. Confirm you can accept hard-copy payroll files from participating employers. Describe the process used to input the payroll data and to ensure it is accurately keyed to the recordkeeping system.
10. Confirm you will accept the electronic remittance file format located at Exhibit 7.
11. For systematic payment distributions, can Participants elect systematic payment from specific investment options?
12. Confirm your system will withhold federal and state taxes, if applicable, on distributions. Does your system allow a Participant to request a net distribution taking federal and state taxes into consideration?
13. Confirm you will prepare and issue tax statements (Form 1099-R) to Participants for all distributions.
14. Describe your process for following up on missing demographic data for enrolled Participants.
15. Describe your process for searching for missing Participants.
16. Describe your search process for Participants with un-cashed benefit checks or distributions. Include information regarding when those funds would move to a separate unclaimed property account since they are unable to escheat to the State.
17. Confirm you will handle all aspects of processing and approving QDROs with the relevant parties and/or their attorneys, without any action required by PEBA. In addition, confirm you will maintain separate accounts for alternate payees.
18. Describe your process for obtaining, tracking, and maintaining Participant beneficiary designations. Confirm your ability to accept and maintain primary and contingent beneficiary information online.
19. Describe the historical information you maintain about Participant accounts and distinguish between which information is immediately available and which information is archived.
20. Describe how your recordkeeping system handles funds with short-term redemption fees, round trip prohibitions, or equity wash rules.
21. Describe your available methods for rebating shared revenue (generated by the mutual fund investment options) back to participant accounts.
22. Describe your process for capturing float interest and explain whether you would retain that float interest as compensation or rebate it to PEBA. In what manner do you document and report float interest earned from the Program?
23. Confirm you will assist Participants at no additional cost with transferring their Program account assets to purchase service in the South Carolina Retirement Systems defined benefit plans.
24. Are all of your participant service systems (e.g. VRS, toll-free number, and website) linked to the same recordkeeping database? If not, briefly describe how you ensure that member's information is updated among all systems.
25. Provide a list of any administrative services you provide that have not previously been described.

V. Regulatory and Compliance

1. Should PEBA desire such services, list the compliance testing you provide and how you address any tests that fail.
2. Describe how you administer §401(a) (9) required minimum distributions, including:
 - a. Identification of eligible individuals;
 - b. Determination of the required payment amount; and
 - c. Processing of the payment by the required deadline, including forcing out required minimum distributions to eligible individuals as directed by PEBA.
3. Confirm you can provide PEBA an annual benefits file containing all available data by Participant.
4. Confirm your ability to provide an AICPA SOC 1 (Type 2) report to PEBA annually. Who completes the audit of your recordkeeping system and how frequently?
5. What resources do you have to obtain legal opinions, interpretations of laws, regulations, and other matters on issues pertaining to public sector defined contribution plans?
6. How do you ensure your recordkeeping system is in compliance with all applicable rules and regulations, including changes to contribution limits? How quickly are changes to federal and state law reflected in your system?
7. Fully describe your fiduciary responsibility as it pertains to the services outlined in this Request for Proposal.
8. Should PEBA wish to comply with 408(b)(2) and 404(a) regulations, confirm you will provide 408(b)(2) disclosures to PEBA and 404(a) disclosures to Participants. Would there be an additional cost to provide such disclosures?

VI. Plan Sponsor Reporting (including Plan Audit)

1. Describe and provide samples of the standard reporting package you will provide to PEBA.
2. Will PEBA be able to generate standard reports online? Are ad-hoc, Plan-level reports available? If yes, what type of training is provided to staff to use the reporting system as well as other aspects of program administration?
3. What is the standard timeframe for providing plan sponsor reports, including investment asset reports, after the reporting period ends?
4. List the types of demographic participant data you will be able to provide.
5. Although PEBA does not foresee any immediate audit engagements pertaining to the Program, do you have a dedicated group to assist with audit engagements? If not, who gathers the required information?
6. What is the lead time necessary to fulfill audit requests?

7. Provide a listing of documentation and reports included in your standard annual audit package.
8. Do you offer performance guarantees related to the delivery of information for an annual audit?

VII. Participant Reporting

1. Describe and provide samples of your standard quarterly participant statements.
2. How is retirement awareness addressed in your quarterly participant statements?
3. Briefly describe any differences between your hard copy statements and statements available online. Confirm Participants have the ability to opt-in to receiving statements online only. In addition, confirm that you can provide electronic statements as the default statement, if PEBA so elects; and, if so, that Participants would have the ability to opt out of electronic statements and receive hard-copy statements. Would there be a reduction in your proposed administrative fee if PEBA elects to have electronic statements as the default statement?
4. What time periods are illustrated for a personalized rate-of-return on participant statements?
5. Describe your customization capabilities for quarterly participant statements and indicate whether they apply to hard copy statements, electronic statements, or both.
6. Could you provide account statements to Participants on an ad-hoc basis? If yes, are Participants able to customize the statements they receive?
7. How much space is available for customized messages from PEBA on quarterly participant statements?
8. Could you include other printed materials, prepared by PEBA, with the mailed quarterly participant statements? If so, would there be an additional cost for this service? How much lead time is necessary to include materials such as this?
9. Confirm you will itemize and disclose, to the extent possible, all associated fees on quarterly participant statements. Do the disclosures substantially comply with ERISA disclosure requirements? What additional fee disclosures, if any, do you provide?

VIII. Custodial Trustee Services

1. For the custody/trustee services you propose, what is the name of the trust company, the total number of years that it has been in operation, and the assets the company holds as of December 31, 2018?
2. What are the total public sector defined contribution assets currently held by the custodian?
3. Are there any restrictions by investment type that pertain to your custodial services? If yes, describe them in detail.
4. Confirm you will offer trustee services for outside investment funds.
5. Do you have a limit on the number of checks/wires available to participants?

6. Do you have an electronic link with investment managers for updating Participants' accounts on your recordkeeping system?
7. Describe your reconciliation process to ensure Participant accounts and total custodial assets are in balance.
8. Will PEBA be required to execute a custodial agreement with your custodial trustee or will it be part of the contract with PEBA? If an additional agreement is required, a copy of the agreement must be submitted with your response to this RFP. Agreements not submitted with your response may not be accepted after award.

IX. Plan Implementation (Not an Evaluated Item)

Offerors should assume an in-kind transfer method that will not require an initial re-enrollment.

PEBA will approve the Program's investment options during the implementation process (i.e., following the award for services outlined in this Request for Proposal but prior to the beginning of the initial contract term).

1. Offerors should submit a proposed implementation plan. The proposed implementation plan should outline, in detail, all the tasks necessary to begin full operations and performance of the contract on July 1, 2020. At a minimum, the proposed implementation plan should specify expected dates of completion of all tasks, how the tasks will be accomplished, the identity of the person(s) responsible for each task, and any personnel who will be onsite during the implementation process. The proposed implementation plan will be converted to a Final Implementation Plan and will be strictly enforced. Offeror should provide the names and qualifications of the top three (3) principal individuals who will be responsible for the implementation of this contract. Specific tasks and schedules to be included in the Offeror's proposed implementation plan include, but may not be limited to:
 - Program description, marketing materials, and website to be used July 1, 2020;
 - Forms to be used beginning July 1, 2020;
 - Letters to be used beginning July 1, 2020; and
2. By what date would you need authority to proceed to accommodate a July 1, 2020, asset and recordkeeping transfer?
3. What involvement will be required from PEBA during the implementation process?
4. How many tests of prior valuation and reconciliation of assets does your company require prior to initiating the implementation process?
5. Do you have any format/media limitations pertaining to the receipt of participant data and records from current Contractors?
6. How do you handle investments during the conversion period?
7. Describe how you handle distributions, especially scheduled distributions, during the conversion period.
8. Describe your procedures for communicating with Participants, including non-active employees (i.e. retirees and terminated employees with accounts remaining in the Program), during the conversion process.
9. Describe your assurances or guarantees regarding a timely implementation.

10. Identify comparable plan conversions with which you have been involved. How many conversions and implementations has your company conducted during the past three years that involved plans with at least 10,000 participants?
11. What is the standard length of your blackout period during a conversion?
12. Describe how you will manage the seamless transition of existing participants who use advice and managed account services.

X. Systems Capabilities and Hardware

1. Describe the system you use to record keep and administer defined contribution plans. Was the software developed internally, is it leased, or was it purchased from another provider? Who is responsible for ensuring the software remains up-to-date regarding any applicable laws and regulations?
2. How long have you used the system for recordkeeping?
3. Describe any major changes to the hardware or software supporting your recordkeeping system that is scheduled for the next 24 months.
4. Describe your documented disaster recovery plan. How often do you test your recovery system?
5. Where is your primary data processing center located? Where is your secondary data processing center located?
6. Describe your maintenance and back-up procedures, including daily back-ups, retention timetable, and off-site back-up storage approach. Is back-up data encrypted?
7. Describe any system outages within the past three years and how they were handled. Has any liability resulted from these outages, and are there any pending claims related to these outages?
8. Will historical information, such as management reports, be in a transferrable format accessible via secure web portal for download, please explain?
9. Describe in detail your procedures and safeguards used to guarantee the following, and explain your process if participant data is compromised:
 - a. Security for your hardware and facility;
 - b. Authorized access to data;
 - c. Confidentiality of data; and
 - d. Security for hard copies of plan-related data or documents.
10. How do you secure information that is exchanged with a client?
11. Are your recordkeeping and trust systems fully integrated?
12. Describe any security breaches within the past three years that resulted in improper access to one or more participant accounts.

XI. Participant Services/Automated Voice Response System (VRS)

1. Describe the security through which a participant passes to use the VRS (i.e. recorded lines, PIN, etc).
2. List the services available through your VRS.
3. List any types of transactions that cannot be processed through your VRS.
4. Is your VRS capable of generating all necessary administrative forms to handle enrollments, withdrawals, and beneficiary change requests?
5. List the types of VRS transactions that generate written confirmations. Are Participants able to request emailed confirmations via your VRS?
6. How quickly is your VRS updated after transactions are processed?
7. Does your VRS capture and retain information related to the confirmation of a transaction request?
8. Is a record retained if a Participant initiates, but does not properly complete, a VRS transaction? Is there any standard follow-up for such an occurrence?
9. Does your VRS accommodate non-English speaking participants?
10. Does your VRS accommodate hearing-impaired or speech-impaired participants?
11. Describe how data is secured within your VRS (e.g., audit trail, PINs, written confirmations).
12. Describe any security breaches that resulted in improper access to one or more Participant accounts within the last three years and the steps you took to remedy the breach.

XII. Participant Services/1-800 Customer Service Center

1. What are the standard hours of operation of your customer service center? Is there flexibility in setting these hours of operation?
2. Where is your primary customer service center located?
3. Where is your back-up customer service center located?
4. List the types of information your customer service representatives (CSRs) will be able to provide to Participants.
5. List any transactions that cannot be processed through your customer service center.
6. Can employees enroll in the Program through your customer service call center?
7. Can Participants change their PIN through your CSRs? Can a PIN be reset and immediately provided to a Participant during the customer service call? Can participants who misplace their PIN call your customer service call center and request that a new PIN be sent directly to their home address?

8. Describe how data is secured within your customer service system (e.g., PINs, recorded lines, written confirmations).
9. Do CSRs support your Participant website? How accessible is the site during an active session?
10. Provide the following information about your CSRs:
 - a. Licensing requirements, employment qualifications as well as your training program;
 - b. Employment relationship (employees or outside contractors);
 - (1) If contractors or a combination, include the percentage of each and duration of subcontractor agreement.
 - c. Average tenure;
 - d. Total CSRs employed on a year-round basis; and
 - e. Compensation structure.
11. Identify your call center customer service goals and standards (e.g., percentage of calls handled without subsequent follow-up, response time). For the past three calendar quarters, include statistics related to the following actual performance:

	Performance Standard	3rd Quarter 2019	2nd Quarter 2019	1st Quarter 2019
Number of calls				
Average length				
Average response time				
Percentage requiring follow-up				
Abandonment rate				
Percentage handled 100% via VRS versus 1-800				

12. Explain your process for recruiting and hiring CSRs.
13. Do you dedicate CSRs to specific client accounts? If so, how do you determine the number to dedicate? How many CSRs would be dedicated to this relationship?
14. How long do you maintain a record of conversations between CSRs and Participants?
15. Describe how your management team monitors the quality of service from your CSRs.
16. What is your procedure for referring a Participant from a CSR to his supervisor? What is your procedure for following up on Participant complaints?

XIII. Participant Services/Website

1. Provide an internet address and instructions on how to access a demonstration of your participant and plan sponsor/participating employer websites and portals.
2. Briefly describe your plan sponsor/participating employer website capabilities.

3. Briefly describe your participant website capabilities, as well as any available online communication materials or tools you offer. List any transactions that cannot be completed via the participant website.
4. Do you offer an automated enrollment process through the participant website?
5. Do you have a mobile app or mobile optimized website? Are the limitations to the functionality versus the full site? If yes, what?
6. Can Participants receive customer service via email or the participant website? If so, who responds to these inquiries? What is the turnaround time?
7. Can Participants chat live via the participant website? If so, who answers the chat and what hours are they available?
8. Can Participants use the participant website to download personal account information using external software programs (e.g., Quicken, Mint, etc.)?
9. Do you track website and portal activity? If so, describe the tracked information and any related client reports.
10. Describe the security in place to protect your web-based portals.
11. Describe any security breaches that resulted in improper access to one or more participant accounts within the last three years and the steps you took to remedy the breach.
12. Describe any improvements to your web based portals and websites that are scheduled for the next three years?
13. Are the same improvements being made to your mobile capabilities? If not, briefly describe what is being done to enhance your mobile capabilities.
14. Are the participant website, VRS, and customer service call center's workstation all linked to the same recordkeeping database?

XIV. Communication and Education

1. Describe the educational and training services you will provide to the Program. Describe separately your initial and ongoing communication and education program (including printed material, visits, training, etc.). Be sure to identify the key elements provided as part of your proposed communication and education program package including the types of marketing media (e.g. print, email, onsite, etc.) Provide sample materials for enrollment, transition and ongoing communication and education.
2. Describe the services you offer to support participating employers, especially regarding the initial enrollment process. How do you maintain and control the inventory of all related enrollment materials?
3. Describe your communication and education program for new Participants, established Participants, and inactive Participants. (I.e., retirees and terminated employees with account balances). Do you contact new Participants immediately upon enrollment? Provide samples of your enrollment kit and other pertinent materials.

4. Describe the retirement planning software you provide to Participants. Do you offer video or web-based educational programs? If so, list the classes or courses currently available (no description necessary).
5. Briefly describe the services you offer to help Participants achieve retirement awareness.
6. Briefly describe the information provided to Participants regarding distribution options. Highlight any services or programs you provide for participants (retired or terminated) leaving the Program.
7. What role, if any, would you request that PEBA have in the communication, education, and enrollment process?
8. Describe your ability to customize your forms, communications, and education materials at no additional cost.
9. Briefly describe how you measure the success of your education/communication programs.
10. Are you willing to provide customized surveys to assess the success of these programs?

XV. Field Services

1. How many Field Service Representatives (FSRs) will you assign to the Program? Will they be exclusively dedicated to this relationship? If not, how many additional accounts will each FSR service?
2. Describe the structure of how the FSRs will be organized to service this relationship, including:
 - a. Locations;
 - b. Staffing (including functions to be performed);
 - c. Standard hours of operation;
 - d. How you would handle pre-scheduled consultations; and
 - e. How you would handle walk-ins.
3. What is your annual cost for each dedicated FSR?
4. What is the per participant cost for your proposed servicing model?
5. Could you assign more or fewer FSRs to the Program, as PEBA requests? If so, describe how any requested changes would impact your asset-based fee and your per-participant fee fees listed in Attachment 7 of this Request for Proposal.
6. Confirm PEBA's ability to request a new onsite representative if the individual(s) is not meeting the Program's needs.
7. Briefly describe the credentials and related experience of your FSRs who will be assigned to the Program.
8. Confirm your FSRs will have no financial incentives to promote specific investment products or services.
9. Describe the compensation structure for the local representatives (e.g. 85 percent salary, 15 percent bonus). Include an explanation of how any bonuses and incentives are determined. *As indicated, it is a requirement that your field service representatives who provide enrollment and education services are not compensated on a commissioned or incentive basis to promote any investment product or services.*

10. Confirm your FSRs will be available to meet with Participants on an individual basis. Do you intend to provide each Participant with an annual account review? If so, how will the reviews be conducted (e.g., in person, via telephone)?
11. Describe your philosophy and methods of participant interaction. Specifically, will you offer in-person education or advisory sessions that would provide Participants with help in financial literacy, asset allocation, budgeting, and post-retirement income planning?
12. Confirm your FSRs will hold group or individual sessions at the employer's location if requested. Will the office(s) of your FSRs be in South Carolina? How will your FSRs be deployed geographically? If preferred, would Participants be able to meet at your FSR's office?
13. Identify the aggregate number of group meetings and one-on-one consultations you expect your FSRs to hold annually.

XVI. Investment Advisory Services

1. Describe your proposed investment advisory service (e.g., Morningstar, Financial Engines, Managed Accounts).
2. How long have you partnered with the proposed investment advisory service vendor?
3. How many of your existing clients have subscribed to the proposed investment advisory services?
4. What are the costs associated with the proposed investment advisory services? Confirm the costs are only charged to Participants who elect to use the service.
5. What are the standard hours of operation during which a Participant may speak with an investment advisory representative regarding advice? Is there flexibility in setting these hours of operation?
6. Describe the methods through which Participants could receive advice (e.g., by phone, in person, via the participant website). How do you manage conflicts of interest that may arise when participants are provided investment advice?
7. Describe the difference between your web based investment education tools and the software provided with your investment advisory services.
8. Does your proposed investment advisory service:
 - Produce asset allocation recommendations?
 - Produce fund-specific recommendations?
 - Consider a participant's assets outside of the Program?
9. Confirm your investment advisory services will provide Participants with impartial and objective advice, free of any conflicts of interest between the advice provider and investment providers.
10. Describe the generally accepted investment theories that form the basis for your proposed advice model.
11. Confirm PEBA will not be responsible for advice offered through your investment advisory services. Describe how Participants are informed of your role as fiduciary for this advice.

12. Do you receive additional compensation (including to any subsidiaries) from the proposed investment advisory services vendor? If yes, describe the arrangement and whether you are willing to rebate a portion of the compensation received from the vendor to the Program.
13. Briefly describe any additional relationships you have with any other advisory or financial wellness providers.
14. Describe any plan sponsor reporting you offer to monitor the usage of investment advisory services and the impact of recommendations adopted by Participants.
15. Will PEBA be required to execute a separate contract with your investment advisory service vendor or will it be part of your service contract and agreements? If an additional agreement is required, a copy of the agreement must be submitted with your response to this RFP. Agreements not submitted with your response may not be accepted after award.

XVII. Investment Management Services

All investment options shall comply with the provisions of the Program's Investment Policy Statement (IPS). Currently, the IPS allows designated service providers to offer no more than 16 core investment options. Refer to the Investment Options section of the IPS for further details, including a listing of approved asset classes.

PEBA reserves the right, at its sole discretion, to add to, replace, or remove any of the investment options. Accordingly, an Offeror should not rely on revenues generated from particular proprietary or non-proprietary investment options when determining its proposed fees.

All investment options that are available to receive contributions shall be fully liquid (i.e., available within five business days) at the Participant level. This requirement pertains to transfers between these options, as well as distributions or rollovers out of the Program. Investment options with multi-term payout schedules, lock-ups, or any other form of withdrawal restrictions at the Participant level are prohibited. However, if market conditions dictate, Contractors and the PEBA may implement mutually agreeable transfer restrictions as deemed necessary.

Offerors shall complete Attachment 7, which describes its proposed investment menu for the Program.

PEBA will approve the Program's investment options during the implementation process (i.e., following the award for services outlined in this Request for Proposal but prior to the beginning of the initial contract term).

1. Confirm all investment options that are available to receive contributions will be fully liquid at the Participant level.
2. Provide the number of outside fund family alliances with whom you currently have relationships, as well as the total number of non-proprietary funds available.
3. Provide the number of commingled investment trust investment options you have available on your platform. What asset classes do the options represent?
4. Confirm there is no cost to make changes to the investment line up.
5. What is the standard timeframe for making changes to the investment line-up?

XVIII. Guaranteed Annuity/Stable Value/Cash Proxy Investment Option

All investment options that are available to receive contributions shall be fully liquid (i.e., available within five business days) at the Participant level. This requirement pertains to transfers between these options, as well as distributions or rollovers out of the Program. Investment options with multi-term payout schedules, lock-ups, or any other form of withdrawal restrictions at the Participant level are prohibited. However, if market conditions dictate, Contractors and PEBA may implement mutually agreeable transfer restrictions as deemed necessary.

PEBA will approve the Program’s investment options during the implementation process (i.e., following the award for services outlined in this Request for Proposal but prior to the beginning of the initial contract term).

1. If proposing a stable value, fixed interest, or annuity product, complete the below charts as of September 30, 2019.

Manager	
Fund Name	
Vehicle (Separate Account/Comingled Trust/General Account)	
Class	
Fund Inception	
Fund Assets (in millions)	
Total Firm Assets (in millions)	
Effective Duration	
Market-to-Book Value Ratio	
Gross Crediting Rate *	
Net Crediting Rate *	
Crediting Rate Reset Frequency	
Minimum Crediting Rate	
Recommended Benchmark	
Benchmark for Underlying Portfolio	
Expense Ratio	
Trustee	

*Specify all fees (e.g., investment management, wrap, sub-advisory, other expenses) associated with the product described above.

Wrap Providers (please list below)	Credit Rating	Allocation (%)
Total		100%

Fees	
Investment Management	
Wrap	
Revenue Share	
Other *	
Total Expense Ratio	

*Specify fees listed above as Other.

Quality/Grade	Allocation (%)
Cash/Cash Equivalent	
AAA	
AA	
A	
BBB	
Below Investment Grade	
Not Rated	
Total	100%

Sector	Allocation (%)
Cash/Cash Equivalent	
U.S. Treasury	
U.S. Government-Related	
Corporate	
Agency Mortgage-Backed Securities	
Non-Agency Mortgage-Backed Securities	
Commercial Mortgage-Backed Securities	
Asset-Backed Securities	
Municipal	
Other *	
Total	100%

* Specify sectors listed above as Other.

Geographical Distribution	Allocation (%)
U.S.	
Dollar-Denominated Non-U.S.	
Foreign Developed	
Emerging Markets	
Total	100%

2. Is your wrap capacity contingent on affiliated investment management?
3. Do you anticipate any changes in wrap fees that would impact the total expense ratio? If so, what is the expected impact?

4. What periodic disclosures or reports are available regarding the composition of the fund, holdings, sector allocations and other characteristics? How soon after quarter-end is this information available?
5. What are the termination and general liquidity provisions of your product at the plan level?
6. Provide returns for your proposed stable value product by completing the below charts.

Trailing Returns*	3-Month	YTD	1-Year	3-Year	5-Year	7-Year	10-Year	Inception
Product								
Benchmark								
Annual Returns*	2018	2017	2017	2016	2015	2014	2013	
Product								
Benchmark								

*Returns should be gross of investment management fees; net of wrap/sub-advisor/other. Periods greater than 1-year should be annualized.

7. If assets are in a separate account structure (i.e., a trust separate from that of the general account supporting the obligations of the insurer), describe the structure of the trust, including trustee and custodian.

5.1.6 PERFORMANCE STANDARDS AND GUARANTEES (LIQUIDATED DAMAGES)

Describe in detail your proposed performance standards and guarantees (liquidated damages). Offerors shall propose at a minimum performance standards and guarantees in the following areas and describe how they will be reported to PEBA.

- Customer satisfaction; and
- Implementation.

5.1.7 ATTACHMENTS

Complete all pertinent attachments.

5.2 BUSINESS PROPOSAL

5.2.1 OFFEROR'S PROPOSED FEES

Offerors shall complete Attachment 5. All proposed fees must be included in Attachment 5 so PEBA may compare Offerors on an equitable basis.

As soon as administratively practicable, Contractors shall return to the Program all 12b-1 fees and other forms of shared revenue generated from the investment options. This revenue should be rebated back to the appropriate Participants in the Program.

Contractors' fees shall be guaranteed for a period of five years, subject to future price reductions based on increased asset size. PEBA expects favorable fee renegotiations if Program assets increase significantly during the contract period.

All investment options shall comply with the provisions of the Program’s Investment Policy Statement (IPS). Currently, the IPS allows designated service providers to offer no more than 16 core investment options. Refer to the Investment Options section of the IPS for further details, including a listing of approved asset classes.

PEBA reserves the right, at its sole discretion, to add to, replace, or remove any of the investment options. Accordingly, an Offeror should not rely on revenues generated from particular proprietary or non-proprietary investment options when determining its proposed fees.

PART 6

AWARD CRITERIA

Award will be made to the four highest ranked responsive and responsible offerors whose offer is determined to be the most advantageous to PEBA. Award will be made to four Offerors.

Proposals will be evaluated by a review panel on the following criteria. Evaluation criteria are stated in relative order of importance with the first criteria being the most important. Once evaluation is complete, all responsive Offerors shall be ranked from most advantageous to least advantageous.

- 1) Participating Employee and Employer Services: Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals XI – XVI will be used to evaluate this criterion.
- 2) Recordkeeping and Administrative Services: Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals IV – VII and X will be used to evaluate this criterion.
- 3) Custodial Trustee and Investment Management Services: Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.1.5, Roman Numerals VIII and XVII – XVIII will be used to evaluate this criterion.
- 4) Offeror’s Proposed Fees: Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.2 will be used to evaluate this criterion.
- 5) Organization and History: Information submitted in response to Part 5, Information for Offerors to Submit, Section 5.2, Roman Numerals I – III will be used to evaluate this criterion.

PART 7

TERMS AND CONDITIONS -- A. GENERAL

7.1 ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015): (a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the Procurement Officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor may assign monies receivable under the contract provided that PEBA shall have no obligation to make payment to an assignee until thirty (30) days after Contractor (not the assignee) has provided the Procurement Officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its

FEIN, Contractor shall provide the Procurement Officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

7.2 BANKRUPTCY – GENERAL (FEB 2015): (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to PEBA. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (b) Termination. This contract is voidable and subject to immediate termination by PEBA upon the Contractor’s insolvency, including the filing of proceedings in bankruptcy.

7.3 CHOICE-OF-LAW (JAN 2006): The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term “Agreement” means any transaction or agreement arising out of, relating to, or contemplated by this solicitation.

7.4 CONTRACT DOCUMENTS & ORDER OF PRECEDENCE: (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications or discussions of an offer, if applicable, (4) your offer, (5) any statement reflecting the state’s final acceptance (the “award”), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by PEBA, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by PEBA. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

7.5 DISCOUNT FOR PROMPT PAYMENT (JAN 2006): (a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices. (b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided PEBA annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

7.6 DISPUTES (JAN 2006): (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees

that any act by PEBA regarding the Agreement is not a waiver of either PEBA's sovereign immunity or PEBA's immunity under the Eleventh Amendment of the United States' Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

7.7 EQUAL OPPORTUNITY (JAN 2006): Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

7.8 FALSE CLAIMS (JAN 2006): According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

7.9 FIXED PRICING REQUIRED (JAN 2006): Any pricing provided by Contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit Contractor from offering lower pricing after award.

7.10 NO INDEMNITY OR DEFENSE: Any term or condition is void to the extent it requires PEBA to indemnify, defend, or pay attorney's fees to anyone for any reason.

7.11 NOTICE (JAN 2006): (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to Contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

7.12 OPEN TRADE (JUN 2015): During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in S.C. Code Section 11-35-5300.

7.13 PAYMENT & INTEREST: (a) PEBA shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the PEBA. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two." (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, PEBA shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to PEBA shall bear interest at the rate of interest established by the

South Carolina Comptroller General pursuant to Section 11-35-45 (“an amount not to exceed fifteen percent each year”), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) PEBA shall have all of its common law, equitable, and statutory rights of set-off.

7.14 PUBLICITY (JAN 2006): Contractor shall not publish any comments or quotes by State of South Carolina or PEBA employees or include the State of South Carolina or PEBA in either news releases or a published list of customers without the prior written approval of the Procurement Officer.

7.15 PURCHASE ORDERS (JAN 2006): Contractor shall not perform any work prior to the receipt of a purchase order from PEBA. Purchase orders may be used to elect options available under this contract, e.g., quantity, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

7.16 SURVIVAL OF OBLIGATIONS (JAN 2006): The Parties’ rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Indemnification - Intellectual Property, Contract Documents and Order of Precedence, HIPAA Compliance/Confidentiality and any provisions regarding warranty or audit.

7.17 TAXES (JAN 2006): Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by PEBA, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by PEBA. It shall be solely PEBA’s obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by PEBA to the Contractor, Contractor shall be liable to PEBA for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on the Contractor’s net income or assets shall be the sole responsibility of the Contractor.

7.18 TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006): Payment and performance obligations for succeeding fiscal periods shall be subject to the availability, authorization, and appropriation of funds therefore. When funds are not appropriated, authorized, or otherwise made available to support continuation of performance in a subsequent fiscal period, the Contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

7.19 THIRD PARTY BENEFICIARY (JAN 2006): This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

7.20 WAIVER (JAN 2006): PEBA does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of PEBA's rights under this Contract. Any waiver must be in writing.

PART 7

TERMS AND CONDITIONS -- B. SPECIAL

7.21 ADVERTISING USE AND REPRESENTATION: CONTACT WITH STATE ENTITIES: The Contractor agrees not to refer to the award of this contract in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the State of South Carolina or PEBA or is considered by the State of South Carolina or PEBA to be superior to other products or services. PEBA reserves the right to review and approve any commercial advertising to which PEBA's use of Contractor's services and/or supplies under this contract is referred. Such review shall be timely and approval shall not be unreasonably withheld. The Contractor shall not perform any mass mailings to participants without the permission of PEBA. At no time during the term of the contract or otherwise, shall any employee of the Contractor use any data, name, address or other information received by the Contractor or Subcontractor pursuant to this contract for any purpose other than performance of the contract.

7.22 ATTORNEY'S FEES: In the event that PEBA brings suit or action to compel performance of or recover for any breach of any stipulation, covenant, term, or condition of this Contract, PEBA may seek attorneys' fees from the Contractor and the Contractor will pay to PEBA such attorneys' fees as the court may award. Contractor will, in all instances, bear its own attorneys' fees and expenses.

7.23 BANKRUPTCY – GOVERNMENT INFORMATION (FEB 2015): (a) All government information (as defined in the clause herein entitled "Information Security - Definitions") shall belong exclusively to PEBA, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate. (b) Contractor agrees to notify PEBA within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to PEBA, before such filing, all government information that is in Contractor's possession in a format that can be readily utilized by PEBA. (c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or access government information.

7.24 CHANGES (JAN 2006): (1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes to the term of the Contract or within the general scope of this Contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for PEBA in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services.

Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed

by the order, an adjustment shall be made in the Contract price, the delivery schedule, or both, and the Contract modified in writing accordingly. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the Contract as changed, provided that PEBA promptly and duly makes such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written Contract Modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless PEBA is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

7.25 COMPLIANCE WITH LAWS (JAN 2006): During the term of the Contract, Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

7.26 CONFERENCE – PRE-PERFORMANCE (JAN 2006): Unless waived by the Procurement Officer, a pre-performance conference between the Contractor, PEBA, and Procurement Officer shall be held at a location selected by PEBA within five (5) days after final award, and prior to commencement of work under the Contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The Contractor or his duly authorized representative shall be required to attend at Contractor's expense.

7.27 CONTRACT INTERPRETATION: In the event there are any disagreements between the parties with regards to the application of this Contract or the requirements of PEBA arising from any interpretation of the Request for Proposals, this Contract, or otherwise, Contractor agrees to defer to the reasonable interpretations of PEBA as from time to time may be made by PEBA. This provision applies to all matters including those arising from disputes concerning whether Contractor is required to provide some service or item including scope of work issues and whether particular items or services were included in the scope of work agreed to by the parties in this Contract or otherwise. In summary, if both parties have a reasonable interpretation regarding application of the contract, Contractor agrees to defer to PEBA's interpretation.

The above requirements shall apply to any change orders, contract modifications, or other deviations to this agreement. Failure to receive the prior written and express approval of PEBA prior to implementing any changes to the requirements provided for hereunder, for which requests for extra or additional compensation are thereafter submitted by the Contractor to PEBA, shall impose no liability for payment upon PEBA and may be rejected by PEBA without recourse.

7.28 CONTRACT LIMITATIONS (JAN 2006): No sales may be made pursuant to this Contract for any item or service that is not expressly listed. No sales may be made pursuant to this Contract after expiration of this Contract. Violation of this provision may result in termination of this Contract and may subject Contractor to suspension or debarment. [07-7B045-1]

7.29 CONTRACTOR PERSONNEL (JAN 2006): The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. [07-7B060-1]

7.30 CONTRACTOR'S LIABILITY INSURANCE-GENERAL (FEB 2015): (a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property

which may arise from or in connection with the performance of the work and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as: (1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 04/13 covering CGL on an “occurrence” basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an “insured contract” as defined in the policy.

(2) Worker’s Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) PEBA, its officers, officials, employees, and volunteers must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(c) For any claims related to this contract, the Contractor’s insurance coverage shall be primary insurance as respects the State, PEBA, and its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the State, PEBA, or its officers, officials, employees, and volunteers shall be excess of the Contractor’s insurance and shall not contribute with it. Policy should be endorsed with Primary and Non-Contributory-Other Insurance Condition CG 20 01.

(d) Prior to commencement of the work, the Contractor shall furnish PEBA with original industry standard Acord certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by PEBA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. PEBA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify PEBA immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and PEBA a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or PEBA by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or PEBA has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by PEBA. PEBA may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) PEBA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7.31 CONTRACTOR’S LIABILITY INSURANCE – INFORMATION SECURITY AND PRIVACY (FEB 2015):

(a) Without limiting any other obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A-: VII, and maintain for the duration of the contract, a policy or policies of insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees, subcontractors or any other entity for which the contractor is legally responsible.

(b) Coverage must include claims for:

(i) information security risks, including without limitation, failure to prevent unauthorized access to, tampering with or unauthorized use of a computer system; introduction of malicious codes, computer viruses, worms, logic

- bombs, etc., into data or systems; or theft, damage, unauthorized disclosure, destruction, or corruption of information in whatever form;
- (ii) privacy risks, including (A) failure to properly handle, manage, store, destroy, or otherwise control non-public personally identifiable information in any format; (B) loss or disclosure of confidential information; and (C) any form of invasion, infringement or interference with rights of privacy, including breach of security/privacy laws or regulations;
- (iii) contractual liability for the contractor's obligations described in the clauses titled "Indemnification - Third Party Claims – Disclosure Of Information" and "Information Use And Disclosure;" and
- (iv) errors, omissions, or negligent acts in the performance, by the contractor or by any entity for which the contractor is legally responsible, of professional services included in the work.
- (c) If the work includes content for internet web sites or any publications or media advertisements, coverage must also include claims for actual or alleged infringement of intellectual property rights, invasion of privacy, as well as advertising, media and content offenses.
- (d) If the work includes software, coverage must also include claims for intellectual property infringement arising out of software and/or content (with the exception of patent infringement and misappropriation of trade secrets)
- (e) Coverage shall have limits no less than five million (\$5,000,000.00) dollars per occurrence and ten million (\$10,000,000.00) dollars aggregate.
- (f) If the insurance required by this clause is procured on a form affording "claims-made" coverage, then (i) all limits stated above as "per occurrence" shall be understood to mean "per claim" or "per occurrence," as is consistent with the terms of the "claims-made" policy; and (ii) such claims-made insurance shall provide for a retroactive date no later than the date the contract is awarded.
- (g) All terms of this clause shall survive termination of the contract and shall continue until thirty (30) days past the final completion of the work, including the performance of any warranty work. In addition, contractor shall maintain in force and effect any "claims- made" coverage for a minimum of two (2) years after final completion of all work or services to be provided hereunder. Contractor shall purchase an extended reporting period, or "tail coverage," if necessary to comply with the latter requirement.
- (h) PEBA and its officers, officials, employees, and volunteers of any of them, must be covered as additional insureds on the policy or policies of insurance required by this clause.
- (i) For any claims related to this Contract, the insurance coverage required by this clause shall be primary insurance as respects PEBA and its officers, officials, employees, and volunteers of any of them. Any insurance or self-insurance maintained by PEBA and its officers, officials, employees, and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.
- (j) Prior to commencement of the work, the Contractor shall furnish PEBA with original certificates of insurance for every applicable policy effecting the coverage required by this clause. All certificates are to be received and approved by the Procurement Officer before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. PEBA reserves the right to require complete, certified copies of all required insurance policies, including policy declarations and any endorsements required by this section, at any time.
- (k) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify PEBA immediately upon receiving any information that any of the coverages required by this clause are or will be changed, cancelled, or replaced.
- (l) Contractor hereby grants to PEBA a waiver of any right to subrogation which any insurer of said Contractor may acquire against PEBA by virtue of the payment of any loss under such insurance as is required by this clause. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not PEBA has received a waiver of subrogation endorsement from the insurer.
- (m) Any deductibles or self-insured retentions must be declared to and approved by PEBA. PEBA may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

7.32 CONTRACTOR'S OBLIGATION - GENERAL (JAN 2006): The Contractor shall provide and pay for all materials, tools, equipment, labor, and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The Contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

7.33 DEFAULT (JAN 2006): (a) (1) PEBA may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:

- (i) Deliver the supplies or to perform the services within the time specified in this Contract or any extension;
- (ii) Make progress, so as to endanger performance of this Contract (but see paragraph (a)(2) of this clause); or
- (iii) Perform any of the other material provisions of this Contract (but see paragraph (a)(2) of this clause).

(2) PEBA's right to terminate this Contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause may be exercised if the Contractor does not cure such failure within ten (10) days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If PEBA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to PEBA for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this Contract is terminated for default, PEBA may require the Contractor to transfer title and deliver to PEBA, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which PEBA has an interest.

(f) PEBA shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. PEBA may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect PEBA against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of PEBA in this clause are in addition to any other rights and remedies provided by law or under this contract.

7.34 DUTIES UPON TERMINATION: Upon expiration or termination of the Contract for any reason, the Contractor shall provide full cooperation to PEBA and any successor Contractor so that the transition to PEBA or a subsequent Contractor will be efficiently accomplished without any disruption in participant distributions or services to participants and employers.

Within ten (10) working days following notice of termination of the contract, the Contractor shall deliver to PEBA a detailed transition plan, including all information regarding current operations requested by PEBA, that PEBA, in its sole discretion, feels is necessary to effectuate a smooth transition to a successor contractor.

No later than sixty (60) days before the end of the term of the Contract, the Contractor shall provide any and all materials, data, records, databases, software, and all other things in the Contractor's possession to PEBA or the successor Contractor at no additional cost to PEBA, including

- (1) all participants information received during the term of the Contract,
- (2) contributions and payments processed during the term of the contract;
- (3) sufficient information and technical assistance on current operations to assure that the transition can be achieved without disruption of ongoing operations.

For a year following the termination of the Contract, the Contractor shall provide any continuing support and/or information to PEBA and the successor contractor necessary to complete the transition and resolve outstanding claims, accounting, and customer service issues. Performance Guarantees will continue to apply during this period of transition.

In the event that PEBA has not secured alternate sources for the supplies and/or services under this Contract at the expiration of, or following termination of the Contract for any reason, the Contractor agrees to continue to perform hereunder at the then applicable prices and terms until such alternate source is obtained and any transition period required to maintain continuity has been successfully completed.

7.35 ILLEGAL IMMIGRATION (NOV. 2008): (An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

7.36 INDEMNIFICATION – THIRD PARTY CLAIMS - GENERAL.

- (a) Notwithstanding any limitation in this Contract, and to the fullest extent permitted by law, Contractor will indemnify PEBA for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages from all suits or claims of any character brought by a third party, when the third party's claims arise out of or are in connection with the goods or services acquired under this Contract, whether caused in whole or in part by any act or omission of Contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, and regardless of whether or not caused in part by PEBA. The Contractor shall be required

to indemnify under this section regardless of its own fault, but if PEBA's negligence is determined by the appropriate court to be the sole proximate cause of the suit or claim, the Contractor will not be required to indemnify PEBA under this paragraph. PEBA will, at all times, retain the right to choose its own counsel and control its own defense.

- (b) PEBA may, at its sole discretion, request Contractor to provide defense of the third party claim or suit. If PEBA elects defense, Contractor will bear full responsibility for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages resulting from the suit or claim. PEBA will give Contractor timely notice of the suit or claim. PEBA's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this subparagraph only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Contractor must provide counsel acceptable to PEBA. Contractor will keep PEBA apprised of all documents filed or sent to the third party in the claim or suit and allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed or sent. PEBA reserves the right to revoke its request for defense at any point and to undertake responsibility for its own defense, in which case Contractor will be required to indemnify PEBA under subparagraph (a) of this paragraph. Contractor may not, without PEBA's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action, suit, or claim.
- (c) Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause will not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist at law or in equity. The obligations of this paragraph will survive termination, cancelation, or expiration of this Contract. This provision will be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

7.37 INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION:

- (a) Notwithstanding any limitation in this Contract, and to the fullest extent permitted by law, Contractor will indemnify PEBA for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages from all suits or claims by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security - Definitions) caused in whole or in part by any act or omission of Contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by PEBA. The Contractor shall be required to indemnify under this section regardless of its own fault, but if PEBA's negligence is determined by the appropriate court to be the sole proximate cause of the suit or claim, the Contractor will not be required to indemnify PEBA under this section. PEBA will, at all times, retain the right to choose its own counsel and control its own defense.
- (b) PEBA may, at its sole discretion, request Contractor to provide defense of the third party claim or suit. If PEBA elects defense, Contractor will bear full responsibility for any and all costs, expenses, settlement payments, attorney's fees, losses, liabilities, and damages resulting from the suit or claim. PEBA will give Contractor timely notice of the suit or claim. PEBA's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this subparagraph only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Contractor must provide counsel acceptable to PEBA. The Contractor will keep PEBA apprised of all documents filed or sent to the third party in the claim or suit and, to the extent practicable, allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed or sent. Contractor may not, without PEBA's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise, or consent (i) includes an unconditional release of

PEBA from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability, or failure to act by or on behalf of PEBA or otherwise adversely affect PEBA. PEBA's consent is necessary for any settlement that requires PEBA to part with any right or make any payment or subjects PEBA to any injunction. PEBA reserves the right to revoke its request for defense at any point and to undertake responsibility for its own defense, in which case Contractor will be required to indemnify PEBA under subparagraph (a) of this paragraph.

- (c) Notwithstanding any other provision, Contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

7.38 INFORMATION SECURITY - DEFINITIONS (FEB 2015): The following definitions are used in those clauses that cross reference this clause.

Compromise means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

Data means a subset of information in an electronic format that allows it to be retrieved or transmitted.

Government information means information (i) provided to Contractor by, or generated by Contractor for, PEBA, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

Information means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Public information means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

Software means any computer program accessed or used by PEBA or a third party pursuant to or as a result of this contract.

Third party means any person or entity other than PEBA, the Contractor, or any subcontractors at any tier.

Unrestricted information means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

Web-based service means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

7.39 INFORMATION SECURITY - SAFEGUARDING REQUIREMENTS (FEB 2015)

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause—

Clearing means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods.

Intrusion means an unauthorized act of bypassing the security mechanisms of a system.

Media means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system.

Safeguarding means measures or controls that are prescribed to protect information.

Voice means all oral information regardless of transmission protocol.

(b) *Safeguarding Information.* Without limiting any other legal or contractual obligations, Contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality and integrity of the government information in its possession. In addition, Contractor shall apply security controls when the Contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (c) of this clause, may be required to provide adequate security, confidentiality and integrity in a dynamic environment based on an assessed risk or vulnerability. Contractor shall comply fully with all current and future updates of the information security requirements of PEBA, as outlined in this Contract and as provided during the term of the Contract.

(c) *Safeguarding requirements and procedures.* Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure:

(1) Protecting information on public computers or Web sites: Do not process government information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. Government information shall not be posted on Web sites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the Web site itself or the application it hosts).

(2) Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that contain government information using technology and processes that provide the best level of security and privacy available, given facilities, conditions, and environment.

(3) Transmitting voice and fax information. Transmit government information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.

(4) Physical and electronic barriers. Protect government information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.

(5) Sanitization. At a minimum, clear information on media that have been used to process government information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800-88, Guidelines for Media Sanitization, at http://csrc.nist.gov/publications/nistpubs/800-88/NISTSP800-88_with-errata.pdf.

(6) Intrusion protection. Provide at a minimum the following protections against intrusions and compromise:

(i) Current and regularly updated malware protection services, e.g., anti-virus, antispyware.

(ii) Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.

(7) Transfer limitations. Transfer government information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

(d) *Subcontracts.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.

(e) *Due Diligence.* Contractor shall complete a due diligence process annually or as otherwise requested by PEBA or a PEBA designated third party. This process may include a written questionnaire and in some cases could require an onsite visit from PEBA or a PEBA designated third party.

(f) *Background Checks.* Contractor shall ensure its staff shall have a criminal background check completed prior to accessing systems and/or applications that contain PEBA data. The background check shall be nationwide and,

at a minimum, include federal, state, and county records where the Contractor's staff member has resided for the past seven years. PEBA maintains the right to request a third party vendor or an individual who is involved with PEBA data and/or systems be removed from the further interaction with PEBA's data and/or systems.

(g) *Training.* Contractor shall provide security and privacy training, at least annually, for all staff members who have access to systems and/or applications that contain PEBA data.

(h) *Other contractual requirements regarding the safeguarding of information.* This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

7.40 INFORMATION SECURITY – DATA LOCATION (FEB 2015): Contractor is prohibited from accessing, processing, transmitting, or storing government information, as defined in the clause titled Information Security, outside the United States. This obligation is a material requirement of this contract.

7.41 INFORMATION USE AND DISCLOSURE (FEB 2015): Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by the government in order to access services provided by the government and such information should be used by those engaged by the government only to the extent necessary to perform the work acquired; accordingly, this clause addresses basic requirements for the Contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymizing information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for government information.

(a) *Definitions.* The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

(b) *Legal mandates.* Contractor shall be permitted to use, disclose, or retain government information to the limited extent necessary to comply with any requirement imposed on Contractor by law. If it is necessary for Contractor to use, disclose, or retain government information in order to comply with a law, Contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law.

(c) *Flow down.* Any reference in this clause to Contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to government information.

(d) *Collecting Information.* Contractor must gather and maintain government information only to the minimum extent necessary to accomplish the work.

(e) *Rights, Disclosure and Use.* Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose government information, or (2) retain government information after termination or expiration of this contract. Contractor acquires no rights in any government information except the limited rights to use, disclose and retain the government information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain the government information itself; and (ii) disclose government information to persons having a need-to-know (e.g., subcontractors). Before disclosing government information to a subcontractor or third party, Contractor shall give PEBA detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure.

(f) *Return.* Notwithstanding PEBA's failure to perform or the pendency of a dispute, Contractor agrees to promptly deliver to PEBA (or destroy, at PEBA's option) all government information in its possession as and upon written request of PEBA (provided that, if the contract has not expired or been terminated, Contractor shall be excused from the performance of any work reasonably dependent on Contractor's further access to such government information).

(g) *Privacy Policy & Applicable Laws.* Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall (a) comply with its own privacy policies and written privacy statements relevant to the work, and (b) comply with (1) all laws applicable to Contractor regarding government information, and (2) all laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards.

(h) *Actions Following Unintended Disclosure.* Immediately upon discovery of a compromise or improper use of government information, Contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than two business days after discovery, Contractor shall notify PEBA of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, Contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide PEBA all information necessary to enable PEBA to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, Contractor shall: (1) provide any notification to third parties legally required to be provided such notice by Contractor, and if not (e.g., if legally required of PEBA), Contractor shall reimburse PEBA for the cost of providing such notifications; (2) pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised; (3) undertake any other measures that are customary and reasonable for an entity to take when experiencing a similar disclosure, (4) pay any related fines or penalties imposed on PEBA, and (5) reimburse PEBA all costs reasonably incurred for communications and public relations services involved in responding to the compromise or improper use. Notwithstanding any other provision, contractor's obligations pursuant to this item (h) are without limitation.

(i) *Survival & Remedy.* All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights PEBA may have, and notwithstanding any other term of this contract, Contractor agrees that PEBA may have no adequate remedy at law for a breach of Contractor's obligations under this clause and therefore PEBA shall be entitled to pursue equitable remedies in the event of a breach of this clause.

7.42 INFORMATION USE AND DISCLOSURE – STANDARDS (FEB 2015): To the extent applicable:

(a) Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division, S.C. Code Ann. § 1-11-490.

(b) South Carolina Financial Identity Fraud and Identity Theft Protection Act (FIFITPA), 2008 Act 190, as amended. Solely for purposes of Section 39-1-90 of the South Carolina Code of Laws, as amended, Contractor is deemed to be the owner of government information, as defined herein, and Contractor agrees that PEBA is not a licensee.

(c) The South Carolina Family Privacy Protection Act of 2002, S.C. Code Ann. §§ 30-2-10, *et seq.*

(d) Personal Identifying Information Privacy Protection, S.C. Code Ann. §§ 30-2-310 *et seq.*

(e) Data Breach Notification, Proviso 117.110 of the 2015-2016 Appropriations Act. H.R. 3701 § 117.110. 121st Cong. (S.C. 2015) (Act 91), as revised in any future annual appropriations act.

7.43 LAWSUIT NOTIFICATION AND COOPERATION. The Contractor shall notify PEBA of any lawsuit or legal claim asserted, brought, filed, or served against the Contractor arising out of or in connection with the goods or services acquired hereunder. Notification shall be made within two (2) business days after the date Contractor first learns, by any means, of the legal claim or lawsuit. The Contractor will keep PEBA apprised of all documents filed in the lawsuit, and, to the extent possible, allow PEBA the opportunity to review and provide input on the Contractor's draft documents before they are filed. PEBA will, at all times, retain the right to choose its own counsel and control its own defense. The Contractor also agrees to cooperate with PEBA and provide data, information, and documentation necessary to pursue litigation filed by or on behalf of PEBA against any party.

7.44 LICENSES AND PERMITS (JAN 2006): During the term of the Contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

7.45 PRICE ADJUSTMENTS (JAN 2006): (1) Method of Adjustment. Any adjustment in the Contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit prices specified in the Contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
- (d) in such other manner as the parties may mutually agree; or,
- (e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

7.46 PRICE ADJUSTMENTS--LIMITED BY CPI "OTHER GOODS & SERVICES" (JAN 2006): Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov.

7.47 PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)

(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with Contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the State finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the Chief Procurement Officer. The State may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the State may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification.

When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the State context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

7.48 RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

7.49 RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015):

(a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter “applicable services”) or, in the case of public employees, to perform their job duties; accordingly, in performing the work, contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter “terms of use”) not previously approved in writing by the procurement officer. Contractor agrees that any terms of use regarding applicable services are void and of no effect.

(b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

(c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work.

(d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the state liquidated damages of \$1,000 for each contact with a citizen or end user that violates this restriction.

7.50 SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE – REQUIRED:

The Contractor must demonstrate that programs, policies and procedures are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used by Contractor to process, store, transmit, and access all government information. In order for the State to accurately evaluate the strength and viability of the Contractor’s security policies, procedures and practices related to confidentiality, integrity and availability, Offerors must submit with their offers a thorough and complete written response to the Service Provider Security Assessment Questionnaire (“Response to SPSAQ”) attached to this Solicitation (Attachment 3), which must address all applicable organizations and applicable information systems. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions.

7.51 SERVICE PROVIDER SECURITY REPRESENTATION (FEB 2015): The following obligations are subordinate to any other contract clause to the extent the other clause specifically provides for enhanced safeguarding of government information, applicable information systems, or applicable organizations. Offeror (i) warrants that the work will be performed, and any applicable information system (as defined in the clause titled “Information Security - Definitions”) will be established and maintained in substantial conformity with the information provided in Offeror’s Response to SPSAQ; (ii) agrees to provide PEBA with prompt notice of any material variation in operations from that reflected in the Response to SPSAQ; and (iii) agrees to comply with all other obligations involving either information security or information use and disclosure imposed by the contract, notwithstanding any inconsistent statement in Offeror’s Response to SPSAQ. To the extent Offeror’s Response to SPSAQ does not conform to any other contractual requirements, PEBA’s lack of objection does not constitute a waiver.

7.52 TERM OF CONTRACT - EFFECTIVE DATE:

Maximum Contract Term: July 1, 2020, through June 30, 2025.

Initial Contract Term: July 1, 2020, through June 30, 2023.

These dates are estimates only. The effective date of this Contract is the first day of the Contract Term as specified on the final statement of award. Regardless, this Contract expires no later than the last date stated on the final statement of award.

7.53 TERM OF CONTRACT – OPTION TO RENEW: (a) At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year(s), 0 month(s), and 0 day(s). Extensions may be less than, but will not exceed, two (2) additional one (1) year terms. Either party may elect not to extend on the anniversary date by providing the other party notice of its intention not to extend, in writing, no later than March 1st of the year prior to the anniversary date.

7.54 TERMINATION FOR CONVENIENCE (JAN 2006): (1) Termination. The Procurement Officer may terminate this Contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the Contract terminated and when termination becomes effective.

(2) Contractor’s Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor’s right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called “manufacturing material”) as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

- (i) contract prices for supplies or services accepted under the contract;
 - (ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
 - (iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;
 - (iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.
- (d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.
- (5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

PART 8

ATTACHMENTS TO SOLICITATION

- Attachment 1 — Important Tax Notice – Nonresidents Only
- Attachment 2 — Offeror's Checklist
- Attachment 3 — Service Provider Security Assessment Questionnaire
- Attachment 4 — Minority Participation Form
- Attachment 5 — Offeror's Proposed Fees
- Attachment 6 — Subcontractor / Affiliate Information
- Attachment 7 — Offeror's Proposed Investment Menu

Attachment 1
IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract (“Using Entity”). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department’s website at www.sctax.org.

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.



STATE OF SOUTH CAROLINA
 DEPARTMENT OF REVENUE
**NONRESIDENT TAXPAYER
 REGISTRATION AFFIDAVIT
 INCOME TAX WITHHOLDING**

I-312
 (Rev. 6/26/01)
 3323

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: _____
2. Trade Name, if applicable (Doing Business As):

3. Mailing Address: _____
4. Federal Identification Number: _____
5. _____ Hiring or Contracting with:
 Name: _____
 Address: _____
- _____ Receiving Rentals or Royalties From:
 Name: _____
 Address: _____
- _____ Beneficiary of Trusts and Estates:
 Name: _____
 Address: _____
6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):
 The South Carolina Secretary of State or
 The South Carolina Department of Revenue
 Date of Registration: _____

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

 Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) _____
 Date

If Corporate officer state title: _____

 (Name - Please Print)

Attachment 2
OFFEROR'S CHECKLIST
AVOID COMMON PROPOSAL MISTAKES

Review this checklist prior to submitting your proposal.
If you fail to follow this checklist, you risk having your proposal rejected.

- DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- REREAD YOUR ENTIRE PROPOSAL TO MAKE SURE YOUR PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE STATE'S MANDATORY REQUIREMENTS.
- MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE INSTRUCTIONS ENTITLED: **SUBMITTING CONFIDENTIAL INFORMATION**. DO NOT MARK YOUR ENTIRE PROPOSAL AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!
- HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- MAKE SURE YOUR PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- MAKE SURE YOUR PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- CHECK TO ENSURE YOUR PROPOSAL INCLUDES EVERYTHING REQUESTED!
- IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! AFTER OPENING, IT IS TOO LATE! AS THIS SOLICITATION INCLUDES A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!

This checklist is included only as a reminder to help offerors avoid common mistakes.
Responsiveness will be evaluated against the solicitation, not against this checklist.
You do not need to return this checklist with your response.

Attachment 3

Service Provider Security Assessment Questionnaire

Instructions: (1) Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. (2) As used in this Questionnaire, the phrase “government information” shall have the meaning defined in the clause titled “Information Security.” (3) This Questionnaire must be read in conjunction with both of the following two clauses (a) Service Provider Security Assessment Questionnaire – Required, and (b) Service Provider Security Representation.

Access Control

1. Describe your policies and procedures that ensure access to government information is limited to only those employees and contractors who require access to perform your proposed services.
2. What safeguards and practices do you have in place to vet your employees and contractors who will have access to government information?
3. Describe safeguards that are in place to prevent unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of government information.

Data Protection and Disposal

4. Do you have documented policies and procedures for managing information assets? If yes, please provide those policies and procedures.
5. Will government information be encrypted at rest? Will government information be encrypted when transmitted? Will government information be encrypted during data backups, and on backup media? Please elaborate.
6. How will government information be managed after contract termination? Will government information provided to the Contractor be deleted or destroyed? When will this occur?

Third Party Management

7. Identify any third party which will host or have access to government information.
8. Describe and explain your security policies and procedures as they relate to your use of your contractors and next-tier sub -contractors.

Human Resources

9. Do you conduct employee awareness training? If so, please explain.

Audit and Compliance

10. List any reports or certifications that you have from properly accredited third-parties that demonstrate that adequate security controls and assurance requirements are in place to adequately provide for the confidentiality, integrity, and availability of the information systems used to process, store, transmit, and access all government information. (For example, an ISO/IEC 27001 compliance certificate, an AICPA SOC 2 (Type 2) report, or perhaps an AICPA SOC 3 report (i.e., a SysTrust or WebTrust seal)). For each certification, describe the scope of the assessment performed. Will these reports / certifications remain in place for the duration of the contract? Will you provide the state with most recent and future versions of the applicable compliance certificate / audit report?

Physical Security

11. Please list the geographical locations of your data centers that could contain PEBA data. Do your secondary/failover sites have commensurate security with your primary site?
12. Describe the policies, procedures and practices you have in place to provide for the physical security of your data centers and other sites where government information will be hosted, accessed or maintained.

Detection and Prevention

13. What controls are in place to detect security breaches? What system and network activity do you log? How long do you maintain these audit logs?
14. Is penetration testing and/or vulnerability assessments performed annually? Is this done with an outside vendor or is it performed using internal staff? Please list the last 3 assessment dates.

Incident Response

15. Describe your incident response policies and practices.
16. Have you had any breaches in the last 3 years which involve more than 500 records? If yes, please provide details. Have you had paid any regulatory fines related to the loss of Personal Health Information and/or Personally Identifiable Information in the last three years? If yes, please describe.

Security Requirements and General Information

17. Are there any planned system upgrades, conversions, other system changes that may affect PEBA in the next year? If yes, please describe.
18. Are there any other material items that you believe we should be aware of?

Offeror's response to this questionnaire includes any other information submitted with its offer regarding information or data security.

SIGNATURE OF PERSON AUTHORIZED TO REPRESENT THE ACCURACY OF THIS INFORMATION
ON BEHALF OF CONTRACTOR:

By: _____
(authorized signature)

Its: _____
(printed name of person signing above)

(title of person signing above)

Date: _____

Attachment 4
Minority Participation

Is the Offeror a South Carolina Certified Minority Business? Yes No

Is the Offeror a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity:

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor?

Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor?

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor?

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

Traditional minority

Traditional minority, but female Women (Caucasian females)

Hispanic minorities

DOT referral (Traditional minority) DOT referral (Caucasian female)

Temporary certification

SBA 8 (a) certification referral

Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

For a list of certified minority firms, please consult the Minority Business Directory, which is available at the following URL: <http://osmba.sc.gov/index.html>.

Attachment 5
Offeror's Proposed Fees

1. What are the factors you consider in determining future fee changes and when they are to occur?
2. How frequently do you evaluate your fees?
3. Provide other alternatives not outlined in this proposal that could result in the lowering of participant fees. Be clear in your response and provide the condition and the result.
4. For your fees quoted below, provide details on your projected asset levels and participant counts as outlined in the chart:

Contract Year	Assets	Participant Accounts
Initial 3-year term		
Option Year 1		
Option Year 2		

5. Briefly describe your fee leveling capabilities.
6. For returning revenue sharing to participant accounts, how frequently do you calculate the amount and how often is it returned to participants?
7. Confirm that your proposed fees are not based upon the receipt of any revenue generated from investment options in the Program.
8. What is your asset-based fee (in basis points) to provide all services outlined in this Request for Proposal? Unless noted elsewhere within this Attachment, provide details of any fees not included in this amount.
9. What is your per-Participant fee (in lieu of the asset-based fee described in the above Question #8) to provide all services outlined in this Request for Proposal. Unless noted elsewhere within this Attachment, provide details of any fees not included in this amount.
10. Please complete the following charts:

Additional Plan-Level Fees

Services	Fee	Comments
Plan Set-up/Installation (one-time fee)		
Plan documents (outside of prototype)		
Annual notifications to eligible participants		
408(b)(2) disclosures		
404(a)(5) disclosures		
Other (be specific)		

Additional Participant-Level Fees

Services	Fee	Comments
Investment advisory		
Managed accounts		
DRO Qualifications		
Wire Fees		
Other (be specific)		

Attachment 6
Subcontractor / Affiliate Information

1. Provide the name of the subcontractor/affiliate and their relationship to the Offeror.
2. Provide a summary of the history of the subcontractor/affiliate to include the number of years they have been in business.
3. Specifically, what role will the subcontractor/affiliate have in the performance of the contract? Provide a detailed description of the services the subcontractor/affiliate will be performing. Include in the description the applicable section from Part IV, Information for Offerors to Submit, by listing the Roman Numeral and title (e.g., XVI. Investment Advisory Services).
4. Confirm the contract with the subcontractor/affiliate has been resolved and is ready for execution upon award.
5. Explain the process for validating and monitoring the performance of the subcontractor/affiliate.
6. List any services for which the subcontractor/affiliate will be solely responsible, and describe how the subcontractor/affiliate will be monitored and managed.
7. Describe any contingency plans in place for if the contract with the subcontractor/affiliate is terminated.
8. Describe any government action or litigation taken or pending against the subcontractor/affiliate during the most recent five (5) years.

Attachment Seven (7)
Offeror's Proposed Investment Menu

This Attachment is posted on the web outside of this document. Offeror shall use the Excel Spreadsheet (Attachment Seven) provided when providing proposed investment menu.