TEXAS PSF

EST. 1845

REQUEST FOR QUALIFICATIONS
RFQ 706-24-002
INDEPENDENT AUDIT SERVICES FOR ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR THE TEXAS PERMANENT SCHOOL FUND CORPORATION

Posting Date: February 14, 2024

Due Date: April 11, 2024

Deliver Response to:
PSFPurchasing@texaspsf.org

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I. Introduction

The Texas Permanent School Fund Corporation (Texas PSF or Corporation) issues this Request for Qualifications (RFQ) to solicit responses from licensed Certified Public Accounting Firms (Firm or Firms) qualified to provide audit services of the Texas PSF's Annual Financial Statements, in accordance with the requirements contained in this RFQ.

The audit services contract will require delegation authority from the State Auditor's Office (SAO). Under that delegation an audit firm would be subject to any guidance or instruction provided by the SAO. SAO will receive a copy of any contract resulting from this RFQ. SAO will receive a copy of the selected contractor's final report. SAO will have access to working papers related to any contracted services resulting from this RFQ. SAO will have access to all draft and final reports and memoranda of discussions between the selected contractor and Texas PSF.

Respondents are encouraged to propose contractual arrangements offering the maximum benefit to the Texas PSF in terms of (1) services to the Texas PSF and (2) audit project management expertise. Respondents should describe all educational and state government discounts, as well as any other applicable discounts that may be available to the Texas PSF.

RESPONDENTS ARE CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFQ CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

II. Expected Schedule of Events and Response Guidelines

It should be noted that all of these dates may vary as conditions require and are subject to change in the best interest of the Texas PSF.

Date	**Activity**
February 14, 2024	Distribute RFQ
February 26-29, 2024	Question & Answer period with respondent's questions e-mailed to PSFPurchasing@texaspsf.org
March 7, 2024	Texas PSF distributes answers to Respondent's questions
April 11, 2024	Response is due to PSFPurchasing@texaspsf.org via electronic submission by 5:00 p.m. central standard time
June 27, 2024	Recommendation and Selection of Firm and commencement of contract negotiations

The Texas PSF prefers responses describing the Firm's ability to meet the requirements of this RFQ in a straightforward, concise manner. In evaluating Responses, emphasis shall be on the quality, completeness, clarity of content, responsiveness to the requirements, and Firm's qualifications and expertise in providing the requested services.

The Response and all attachments supporting the Response must reference "RFQ 706-24-002 Independent Audit Services." Responses must be submitted and received electronically by the Texas PSF's Purchasing Office on or before the time and date specified in this RFQ and delivered to:

Texas PSF – Purchasing Department
PSFPurchasing@texaspsf.org

III. Background

The Texas Permanent School Fund (PSF or Fund), a public endowment fund for the benefit of Texas public schools, was first established in 1845. In 2021, the 87th Texas Legislature, Regular Session, enacted SB 1232, allowing the Texas State Board of Education (SBOE) to create the Texas PSF as a special-purpose governmental corporation to manage the Fund. Texas PSF was legally created in December 2021 and is led by a Board of Directors (Board) and Chief Executive Officer (CEO) in accordance with Texas Education Code, Chapter 43, Subchapter B. On September 1, 2022, financial support and operations went into production for the Corporation as a stand-alone entity. On January 1, 2023 financial assets and Texas PSF employees were transferred from the Texas Education Agency (TEA) and the Texas General Land Office (GLO) to the Corporation.

The Board adopted asset class targets, ranges and performance objectives as part of the Investment Policy Statement effective January 1, 2023. The first year for the Texas PSF to report in its corporate form, as a discretely presented component unit of the State of Texas, was fiscal year ended August 31, 2023. As of August 31, 2023, the Texas PSF manages approximately $52.3 billion in investments on behalf of Texas Public Schools.

IV. Scope

The Texas PSF seeks responses from qualified firms to provide an independent audit of the financial statements in accordance with auditing standards generally accepted in the United States of America.

The services that will be required are as follows:

A. Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for an opinion.

B. Obtain an understanding of the internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances for the purpose of forming an opinion of the financial statements, but not for expressing an opinion on the effectiveness of the Texas PSF's internal control structure.

C. Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

D. Review the work of internal audit, if such a function is in place, with the aim of obtaining reliance on results of internal audit assignments to reduce the necessary scope of audit work to be performed under this engagement.

E. Determine, based on the audit evidence obtained, whether there are conditions or events that considered in the aggregate, raise substantial doubt in the Corporation's ability to continue as a going concern for a reasonable period of time.

F. Work collaboratively with Texas PSF management and staff in performing the necessary steps and procedures to obtain sufficient audit evidence for the purpose of expressing an opinion on the Corporation's annual financial statements.

G. Issue a written report (opinion) of the results of the Corporation's annual financial statements.

H. Compilation of Annual Consolidated Financial Report, as may be necessary or requested.

I. Issue other reports related to the scope of the work performed, as may be necessary or requested.

J. Other assurance-related assignments as requested and negotiated, inclusive of agreed upon procedures related to the Texas PSF incentive compensation program.

V. Qualifications

Texas PSF will select the Firm (or Firms) whose Response demonstrates, in its judgment, the competence and experience to provide the required level of service. In order to be selected, Firms must meet all of the requirements of Section V and must be able to provide the required level of services as described in Section IV. The firm(s) selected must meet requirements established by Texas state law, the Board, the State Comptroller and the State Auditor.

A. Minimum Qualifications for Firms

All Firms submitting Responses for the mandate stated above, **at a minimum**:

1. Must provide evidence of Firm stability and financial strength;
2. Must be in existence for at least ten (10) years;
3. Must demonstrate the ability to fully meet the Scope of Services as described in Section IV of this document;
4. Must provide evidence of a license to practice public accountancy in the state of Texas;
5. Must have an established practice within the state of Texas;

6. Must have five (5) years of auditing at least three (3) investment firms with assets under management over $10 billion;
7. Must have three (3) consecutive years in actively providing governmental accounting and assurance services to state or local governments operating investment funds;
8. Must have a satisfactory record of past performance and evidence of professionally required peer review;
9. Must have necessary personnel and management capability to perform engaged work;
10. Must certify that the firm is not delinquent in any tax owed the State of Texas under Chapter 171, Tax Code;
11. Must be qualified and eligible to receive an engagement award under applicable laws and regulations.

B. Minimum Qualifications for Firm's Lead Professional

The lead professional(s) assigned to the Texas PSF account, at a minimum:

1. Must have five (5) years with the Firm;
2. Must be licensed to practice as a Certified Public Accountant (CPA) in Texas;
3. Must be adequately knowledgeable of Generally Accepted Accounting Principles (GAAP), Generally Accepted Auditing Standards (GAAS), Generally Accepted Government Auditing Standards (GAGAS), Government Accounting Standards Board (GASB) pronouncements, and Government Finance Association (GFOA) reporting requirements;
4. Must have at least five (5) years experience in leading an audit of at least three (3) investment firms with more than $10 billion in assets under management;
5. Must build an audit team in which the team members have on average at least three (3) years of experience auditing an investment firm of reasonably similar size;
6. Must be able to complete the audit and issue an opinion on the financial statements for the fiscal year ended August 31, 2024 prior to December 15, 2024.

VI. Vendor Responses must demonstrate:

A. <u>Expertise of the Firm</u>

1. The Firm's competence and knowledge to fulfill the requirement identified in the Scope, as evidenced by the history of your firm, including but not limited to years in business, experience of the firm's personnel.
2. The Firm's experience in providing the same or similar services for a similar entity, especially other investment organizations and/or other governmental organizations.
3. Please provide three (3) references from current or past clients with same or similar scope.
4. State whether the respondent has received a peer review and whether an unqualified report was issued.
5. State whether the respondent is a national, regional or local public accounting firm.

6. Provide status and explanation of any disciplinary action taken against the respondent by the Texas State Board of Public Accountancy and/or licensing boards of other states.
7. Describe the proposed audit team in terms of job positions in the firm.
8. List names of staff member(s) who will direct the overall audit throughout the duration of the engagement as well as those staff members who will be responsible for planning, directing, and conducting substantial portions of the fieldwork and reporting on this audit engagement. Include the educational background of all staff members named and professional licenses held. Provide status and explanation of any disciplinary action taken against any listed staff member by the Texas State Board of Public Accountancy and/or licensing boards of other states.
9.

B. <u>Methodology</u>

1. Describe your approach to perform the audit called for in the RFQ, specifically addressing the methodology, nature, timing and extent of the audit procedures performed;
2. Describe how the approach to performing the audit would be affected if this were a multi-year engagement; and
3. Make a statement concerning the independence of the respondent, including direct and indirect financial interest, and the relationship of the proposed audit team to present and former employees of Texas PSF, management, contractors and the Texas PSF Board. A list of current Board members can be found at https://texaspsf.org.
4. If any part of the contracted services is to be subcontracted with other auditing firms, that fact, and the name of the proposed subcontracting firms, must be clearly identified in the response. No subcontracting will be allowed without the express prior written consent of Texas PSF.
5. Describe the level of assistance that will be expected from Texas PSF personnel, including any existing internal audit function. Please note that Texas PSF is currently in the process of developing an internal audit function.

C. <u>Deliverables</u>

1. Provide a thorough and detailed schedule of events, timelines, progress meetings and completion date of deliverables.
2. A report on the fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles to be submitted prior to December 15, 2024 for the FY 24 audit.
3. A letter to the CEO and the members of the Board explaining any reportable conditions found during the audit. A reportable condition shall be defined as a material weakness or a significant deficiency in the design or operation of the internal control structure, which could adversely affect Texas PSF's ability to record, process, summarize and report financial data in the financial statements consistent with the assertions of management. The auditor(s) shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to Texas PSF's Board and CEO.

The auditor shall provide weekly progress reports throughout the audit engagement.

VII. Submitting Questions Process

Inquiries must be submitted via e-mail with the subject line listed as **"RFQ 706-24-002 External Audit Services"** and received no later than close of business Thursday, February 29, 2024, per Respondent's Question and Answer forum deadline listed in Section II.

Texas PSF – Purchasing Department
PSFPurchasing@texaspsf.org

Responses to inquiries which directly affect an interpretation or require a change to this RFQ will be issued in writing by addendum (amendment) and distributed electronically to all prospective respondents via the same method as the original RFQ. All such addenda issued by the Texas PSF prior to the time that Responses are received shall be considered part of the RFQ, and the Respondent shall be required to consider and acknowledge receipt of such in Respondent's submission.

Only those inquiries the Texas PSF replies to which are made by formally written addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect. The Respondent must acknowledge all addenda by either signing or returning such document(s) or by letter. Such acknowledgment must be received prior to the hour and date specified for receipt of the Response or shall accompany the Response.

If you have any questions, require any clarifications, or have found any error or omission regarding this RFQ, please submit via email to PSFPurchasing@texaspsf.org by the deadline listed in Section II.

VIII. Pricing

The Schedule of Fees must contain all estimated pricing information relative to performing the audit engagement as described in this RFQ. The total all-inclusive maximum price estimate must contain all direct and indirect costs to be charged to Texas PSF, including all Firm out of pocket expenses for which reimbursement will be sought. The Schedule of Fees must include maximum estimated pricing for each year of the first five (5) years of the potential engagement period. Texas PSF will not reimburse or otherwise be responsible for expenses incurred in preparing and submitting a response. Such costs may not be included in the response.

A. The first page of the Schedule of Fees must include the following information:
   1. Name of the Firm.
   2. Certification that the person signing the response is entitled to represent the Firm, empowered to submit the response, and authorized to sign a contract with Texas PSF.
   3. A Total All-Inclusive Maximum Price Estimate for the FY 24 audit.
   4. All-Inclusive Maximum Price Estimate for each of the subsequent years.

5. All costs should be detailed and itemized, as well as provide an estimated "grand total" for the first five (5) years of the engagement.

B. The second page of the Schedule of Fees must include a schedule of hourly rates, professional fees and expenses that supports the Total All-inclusive Maximum Price Estimate for 2024 as well as subsequent years.

C. Out-of-pocket expenses must be included and will count against the Total All-Inclusive Maximum Price Estimate. Reimbursements for Firm personnel (e.g., travel, lodging and subsistence) will be made at the State approved rates if approved by Texas PSF. All estimated out-of-pocket expenses to be reimbursed should be presented in the Response Package for each potential year of the engagement. All expense reimbursements will be charged against the Total All-Inclusive Maximum Price Estimate submitted by the Firm.

D. If it should become necessary for Texas PSF to request the Firm to render any additional services to either supplement the services requested in this RFQ or to perform additional related work, any such additional work must be agreed to in writing between Texas PSF and the Firm and shall be performed at negotiated rates prior to the start of the additional service.

Pricing should also include a proposed estimated payment schedule.

This pricing information will be used to determined if the Firm can provide the services at a fair and reasonable price.

IX. Response Evaluation Criteria

Responses are due by 5:00 p.m., central daylight time, on Thursday, April 11, 2024. Responses must be delivered to PSFPurchasing@texaspsf.org or provide a link to the response housed in a shared hosted file (cloud) service.

Any questions regarding the RFQ should be directed to PSFPurchasing@texaspsf.org and Texas PSF may respond at its discretion and in the method it deems most appropriate.

On-site presentations may be scheduled with selected finalists. References may be checked.

Responses will be evaluated based on the ability of each Respondent to meet the requirements contained in this RFQ. The Texas PSF will make its selection based on best value, including among other things demonstrated competence and qualifications of the Respondent, and in accordance with applicable fiduciary duties.

Responses will be evaluated with the following factors:

A. Completeness and suitability of response.
B. Expertise in providing similar support and services to clients as evidenced by the response material and references.
C. Depth and Breadth of Staff – The candidate firm has appropriate and diverse staff to complete the engagement and meet all deliverables.
D. Response Presentation – The information is presented in a clear, logical manner and is well organized.

By submitting a Response to this RFQ, the Respondent accepts the evaluation process and acknowledges and accepts that determination of qualified Respondents will require subjective judgment.

X. Contracting

The contract is contingent upon the SAO granting delegation of authority for the procurement of audit services and shall be for an initial term beginning upon execution and ending December 31, 2029. The contract term may be renewed by amendment signed by the parties for up to two (2), two-year renewal periods.

Texas PSF anticipates entering only one contract.

Texas PSF will negotiate contract terms with selected Respondent(s) upon selection. Appendix A contains the standard contract terms and conditions intended to be used for the project. Terms of the contract will be negotiated with the selected Respondent as soon as practical. Any comments to the standard contract terms and conditions MUST be provided at the time of submittal.

XI. Response Submission Requirements

Responses must contain the signature of a duly authorized officer or agent of the company submitting the proposal.

Provisions of this RFQ and the contents of the successful response are considered available for inclusion in the final contract.

A copy of the Respondent's code of ethics may be requested. Respondents must agree to comply with the applicable state laws, ethics policies and any conflict-of-interest provisions in an awarded contract.

The Respondents must describe any potential conflicts of interest that might arise in the course of providing the services required in this RFQ. Generally, a conflict of interest involves any relationship (such as financial, familial or personal) with a person or entity, including, without limitation, a relationship with a member of the Board of Directors, an employee, or a vendor of the Texas PSF, if a reasonable person could expect the relationship to diminish the Respondent's independence of judgment in the performance of the Respondent's responsibilities, other than a relationship necessary to the services that the Respondent performs for the Texas PSF.

Respondents shall provide any details of material pending or past (within 5 years) litigation or claims filed against the Respondent or any principal officer that reflect adversely upon the qualifications of the Firm, or that specifically involve the State of Texas or the services as contemplated under this RFQ. Respondents shall also provide any details of material pending or past (within 5 years) governmental investigations or judgements filed against the Respondent or any principal officer or employee of the firm. Respondents shall identify if the Respondent's firm is currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If so, specify date(s), details, circumstances, and prospects for resolution.

Respondents must: indicate on the Response Cover Page if a submission contains proprietary, confidential, or copyright material, i.e., considered a trade secret or protected by patent or copyright laws; identify each document, page, and answer within the proposal if proprietary, confidential, or copyright material; and accordingly, clearly mark each document, page, and

answer. As such, if a public information request related to the RFQ process is received, Texas PSF will follow the procedures of Texas Government Code, Chapter 552, (Texas Public Information Act, the "Act"). Exceptions to disclose do exist and it may be possible that proprietary or confidential information can be withheld under the requirements of Texas Government Code, Section 552.110, Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information or Texas Government Code, Section 552.1101, Exception: Confidentiality of Proprietary Information. If there appears to be an exception to disclosure, the matter would be presented to the Texas Attorney General to issue a decision and render an opinion about the proprietary or confidential nature of the material. If Respondent's proprietary information is subject to a public information request, Texas PSF would notify Respondent in accordance with the Act. The burden of proof concerning confidentiality rests with the author of the material and Texas PSF would not be required to argue on another's behalf. All opinions from the Texas Attorney General are binding, absent appeal in accordance with the Act.

Appendix A
Standard Terms and Conditions

1. **DELAY.** Time is of the essence. If a delay is foreseen, Contractor shall give written notice to the Texas Permanent School Fund Corporation ("Texas PSF"). Texas PSF has the right to extend delivery or service date if Texas PSF determines, in its sole discretion, that the Contractor has established valid reasons to justify the delay. Contractor shall keep Texas PSF advised at all times of the status of the promised goods or services. In the absence of Texas PSF's written approval, the Contractor's default or delay in promised delivery, failure to meet the promised service date, or failure to meet specifications authorizes Texas PSF to purchase goods or services elsewhere and charge full increase, if any, in cost and handling to defaulting Contractor.

2. **INVOICES.** Contractor shall submit one original copy of an itemized invoice showing the Texas PSF PO number, description of each item, quantity, unit of measure and price of each item, at the frequency indicated in Contractor's RFQ response. Transportation costs shall be included in the invoice, if applicable, and a copy of the freight bill shall be included if transportation costs are based on actual cost.

   (a) Contractor can forward the invoice to the following
   address: Texas Permanent School Fund Corporation
   ATTN: Accounting
   Department 400 W. 15th
   Street, Suite 1100
   Austin, TX 78701

   (b) Contractor shall email invoices to: psfinvoices@texaspsf.org

3. **PAYMENT.** Payments shall be made within thirty (30) days from receipt and approval of a complete and correct invoice in accordance with the Texas Prompt Payment Act provided in Texas Government Code, Title 10, Subtitle F, Chapter 2251.

4. **TAXES.** Texas PSF is exempt from the state sales tax and federal excise tax. The undersigned claims an exemption from taxes under §151.309 of the Texas Tax Code, for purchase of tangible personal property described on the accompanying Purchase Order (PO) or this Contract, if applicable, purchased from Contractor and/or shipper listed above, as this property is being secured for the exclusive use of the State of Texas. A tax exemption certificate is available upon vendor's request. Do not include tax in your invoice.

5. WARRANTIES.

   (a) **PRICE.** The prices to be paid by Texas PSF shall be those contained in Contractor's bid or, if no bid, in Contractor's quotation, and Contractor warrants that such prices are valid for a minimum of sixty (60) days from the date of the bid and are no higher than Contractor's current prices on orders by other Purchasers for products of the kind and specifications covered by this agreement for similar quantities under similar or like conditions and methods of purchase. If Contractor breaches this warranty, the prices of the items shall be reduced to the Contractor's current prices on orders by other Purchasers, or Texas PSF may cancel this Contract without liability to Contractor.

(b) **PRODUCT CONFORMANCE.** Contractor warrants to Texas PSF that all goods and services furnished shall conform in all respects to the terms of the PO or Contract, including the specifications, any drawings, standards, and descriptions incorporated herein, and shall be free from any defects in materials, workmanship, and free from such defects in design. In the event of a conflict between the specifications, drawings, standards, and descriptions, the specifications shall govern. In addition, Contractor warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended. Manufacturer's standard warranty shall apply unless otherwise specified.

(c) **PATENTS OR COPYRIGHTS.** Contractor agrees, at its expense, to indemnify, hold harmless and defend Texas PSF and the State of Texas from claims involving infringement of third parties' licenses, trade and service marks, copyrights, patents, or any other intellectual or intangible property rights in connection with the performances or actions of Contractor pursuant to this Contract.

(d) **WARRANTY OF TITLE.** Contractor warrants that the title to all material, supplies and equipment furnished is free of liens and encumbrances.

6. WORKS MADE FOR HIRE. For purposes of the PO or Contract, the term “Works” means all tangible or intangible materials, deliverables, products, ideas, documents or works of authorship prepared or created by Contractor for or on behalf of Texas PSF at any time after the beginning date of the Contract. “Works” includes but is not limited to computer software, data, metadata, source code, concepts, systems, methodologies, information, images, illustrations, designs, graphics, drawings, logos, trademarks, patentable materials, work papers, work products, approaches, specifications, intellectual property or other property developed, produced or generated in connection with the services provided under the Contract. Texas PSF and Contractor intend this agreement to be a Contract for the services and each considers the Works and any and all documentation or other products and results of the services to be rendered by Contractor to be Works made for hire. Contractor and Contractor’s employees will have no rights in or ownership of the Works and any and all documentation or other products and results of the services or any other property of Texas PSF. Contractor acknowledges and agrees that the Works, the related intellectual property rights, and all other rights resulting from the Works, belong to and shall be the sole and exclusive property of Texas PSF.

7. ENTIRE CONTRACT. This PO or Contract together with any documents referenced or cited within the PO or Contract, comprise the entire agreement between the parties relating to the rights granted and the obligations assumed in it and apply to all services performed on or after the date of the PO or Contract. This PO or Contract supersedes any previous understandings or negotiations between the parties. Any documents referenced via URLs, “click-through” license agreements, end-user licenses, subscription agreements, terms of use or other terms that may be presented on, through or by the technology platform or websites provided or operated by Contractor (whether presented before or after contract signing) shall be effective to the extent they do not conflict with this Contract or with Texas law.

8. FAILURE TO PERFORM. If Contractor fails to comply with or perform any of its obligations under the PO or Contract, Texas PSF may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of the PO or Contract in whole or in part; and the seeking of other remedies as may be provided by the PO, this Contract, or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of notice thereof from Texas PSF.

9. **CANCELLATION, TERMINATION OR SUSPENSION.** If the PO or this Contract is cancelled, terminated, or suspended by Texas PSF, the reasonable monetary value of services properly performed by Contractor pursuant to the PO or this Contract prior to such cancellation, termination or suspension shall be determined by Texas PSF and paid to Contractor as soon as reasonably possible. The cancellation date shall be the date the Contractor is notified by Texas PSF of such cancellation.

   Texas PSF may terminate the PO or this Contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days' advance written notice to Contractor. In the event of such a termination, Contractor must, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. Texas PSF shall be liable for reimbursing only those costs incurred by Contractor that are permitted under this Contract and were incurred prior to the effective date of termination.

10. **FORCE MAJEURE.** Texas PSF may grant relief, for time of performance only, if the Contractor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the Contractor. The burden of proof for the need of such relief shall rest upon the Contractor. To obtain relief based on force majeure, the Contractor shall file a written request with the Texas PSF describing the events, dates and effect of the events on Contractor's ability to perform according to the PO or this Contract.

11. **ASSIGNMENT OF PURCHASE ORDER OR CONTRACT.** PO or Contract may not be assigned, sold, or transferred without the express written consent of Texas PSF. An attempted assignment after PO/Contract award without Texas PSF approval will constitute a material breach of Contract.

12. **FUNDING.** All PO's or Contracts are contingent upon the continued availability of lawful appropriations by the Texas Legislature and are subject to cancellation or termination, without penalty or cost to Texas PSF, if legislative action of any kind causes Texas PSF not to have the authority, sufficient appropriated funds, or the need to continue or complete the Contract.

13. **DISPUTE RESOLUTION.** The dispute resolution process provided for in Texas Government Code Chapter 2260 must be used by the Contractor to attempt to resolve any disputes brought by the Contractor under this Contract.

14. **RIGHT TO AUDIT.** Pursuant to §2262.154 of the Texas Government Code, the State Auditor may conduct an audit or investigation of any entity receiving funds from the state, either directly under a Contract or indirectly under a subcontract. Contractor understands that acceptance of funds under this Contract or under a subcontract acts as acceptance of the authority of the State Auditor, or any successor agency, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. If subject to an audit or investigation, Contractor agrees to cooperate fully with the State Auditor or its successor and to provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Contractor agrees to ensure that this provision concerning the State Auditor's authority to audit or investigate subcontractors receiving funds indirectly through Contractor is included in any

Contractor subcontract.

15. **PUBLIC INFORMATION.** Information, documentation, and other material in connection with the PO or this Contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Texas Public Information Act"). Contractor understands that Texas PSF will comply with the Texas Public Information Act as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Texas PSF shall use commercially reasonable efforts to maintain the confidentiality of Contractor’s trade secret and/or proprietary information.

Nothing herein shall prevent disclosure of such trade secret or proprietary information as required by law, or by any judicial, governmental, or administrative body under any law, regulation, or order; provided, however, that Texas PSF shall give prior written notice of such disclosure in accordance with the Texas Public Information Act or applicable law.

16. **CONFIDENTIAL INFORMATION.** All information gathered, produced, derived, obtained, analyzed, controlled or accessed by Contractor in connection with the Contract and information that is confidential under the provisions of the Texas Public Information Act, or other applicable state or federal laws (collectively “Confidential Information”) shall be and remain Confidential Information and shall not be released or disclosed by Contractor without prior written consent of Texas PSF, which consent must specifically identify the Confidential Information to be disclosed by Contractor and the nature of the disclosure for which consent is sought. Contractor will indemnify and hold harmless the State of Texas, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its Contractors of such Confidential Information.

17. **ANTI-TRUST.** Contractor hereby assigns to Texas PSF any and all claims for overcharges associated with this PO or Contract arising under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq., (1973), and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).

18. AFFIRMATIONS.

(a) **GRATUITIES.** The Contractor affirms that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.

(b) **CERTAIN BIDS AND CONTRACTS PROHIBITED.** Pursuant to Texas Government Code §2155.004, Contractor affirms that it did not receive compensation for participation in the preparation of the specifications for the PO or Contract and certifies that the individual or business entity named in the PO or Contract is eligible to receive the specified Contract and acknowledges that this Contract may be terminated or payment withheld if this certification is inaccurate. The Contractor also certifies that it did not collude with, nor receive any assistance from, any person who was paid by Texas PSF to prepare specifications or a solicitation on which a Contractor's award was based and did not allow any person who prepared the respective specifications or solicitation to participate financially in any contract awarded.

19. DEBT TO THE STATE. Contractor agrees that any payments due under the PO or Contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

20. NO WAIVER. Nothing in the PO or Contract shall be construed as a waiver of Texas PSF's or the State of Texas's sovereign immunity. The PO or Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Texas PSF or the State of Texas.

21. INDEMNITY. Contractor shall indemnify, hold harmless, and defend Texas PSF and the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Contractor or any agent, employee, subcontractor, or supplier of these entities in the execution of this Contract. For the avoidance of doubt, Texas PSF shall not indemnify Contractor or any other entity under the PO or Contract.

22. EXCLUDED PARTIES LIST. Contractor affirms that it and its principals are eligible to participate in this transaction and have not been subject to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity, and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement, and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at: http://www.Sam.gov. Contractor also affirms that it has not been convicted of a felony in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Katrina or subsequent disasters.

23. LIABILITY FOR AND PAYMENT OF TAXES. Contractor affirms that it shall pay all taxes, including, but not limited to, any federal, state, or local income, sales, or excise taxes of Contractor or similar amounts resulting from the PO or Contract**.**

24. VENUE. The PO and Contract are governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning the PO or Contract shall be in a court of competent jurisdiction in Travis County, Texas.

25. FEDERAL RULES, LAWS, AND REGULATIONS. Contractor shall be subject to and shall abide by all applicable federal laws, rules, and regulations.

26. E-VERIFY. Contractor understands if it is awarded a Contract or PO that it will utilize and continue to utilize, for the term of the Contract, the U.S. Department of Homeland Security's E- Verify system to determine eligibility of: 1. All persons employed to perform duties within Texas, during the term of the Contract; and 2. All persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America. Contractor shall provide, upon request of the Texas PSF an electronic or hardcopy screen shot of the confirmation number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

27. BOYCOTT ISRAEL. Contractor represents and warrants that: (a) it does not, and shall not for the duration of the PO or Contract, boycott Israel, or (b) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify Texas PSF.

28. HUMAN TRAFFICKING PROHIBITION: Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in the PO or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

29. ENERGY BOYCOTT. Contractor represents and warrants that: (a) it does not, and will not for the duration of the PO or Contract, boycott energy companies or (b) the verification required by Section 2276.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify Texas PSF.

30. FIREARM ENTITIES AND TRADE ASSOCIATIONS DISCRIMINATION: Contractor verifies that:

(1) it does not, and will not for the duration of the PO or Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or

(2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify Texas PSF.

31. COVID-19 VACCINE PASSPORT PROHIBITION: Under Section 161.0085 of the Texas Health and Safety Code, Contractor certifies that the individual or business entity named in this PO or Contract is not ineligible to receive the specified contract.

32. POINT OF CONTACT: All notices, reports, and correspondence or other data required by the PO or Contract shall be in writing and delivered to the individuals listed below or their successors in office.

Texas PSF	**Contractor**
Robert L. Borden, CFA, CAIA	
Chief Executive Officer	
Texas Permanent School Fund Corporation	
400 W. 15th Street, Suite 1100	
Austin, TX 78701	
PSFContracts@texaspsf.org	