

NEVADA CAPITAL INVESTMENT CORPORATION



Request for Proposal for Fund-of-Funds Manager for Regionally Targeted Private Equity Program

Released on: January 25, 2012

Questions Due on: February 8, 2012

Submissions Due on: March 9, 2012

Nevada Capital Investment Corporation
Request for Proposal No. 001
for

**Fund-of-Funds Manager for
Regionally Targeted Private Equity Program**

Release Date: January 25, 2012
Deadline for Submission and Opening Date and Time: March 9, 2012

For additional information, please contact:
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This document must be submitted in the "State Documents"
section/tab of vendors' technical proposal

See Page 25, for instructions on submitting proposals.

Contact Information

Company Name _____

Address _____ City _____ State _____ Zip _____

Telephone (____) _____ Fax (____) _____

E-Mail Address: _____

Prices contained in this proposal are subject to acceptance within _____ calendar days.

Contact Person _____

Print Name & Title _____

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A Request for Proposals (“RFP”) process is different from an Invitation to Bid. The Nevada Capital Investment Corporation (NCIC) expects vendors to propose creative, competitive solutions to the agency's stated need, as specified below. Please be aware that no pre-determinations have been made by NCIC Directors, or staff from the State Treasurer’s Office, regarding a preferred vendor, nor does any company that submits a proposal have any pre-existing advantage or disadvantage based on that firm’s location, size, experience in Nevada, or any previous discussions with the Nevada Legislature, NCIC Directors, or staff.

Vendors may take exception to any section of the RFP. Exceptions should be clearly stated in Attachment B (Certification of Compliance with Terms and Conditions of RFP) and will be considered during the evaluation process. The State reserves the right to limit the Scope of Work prior to award, if deemed in the best interest of the State NRS §333.350(1).

I. BACKGROUND

A. CREATION OF NEVADA CAPITAL INVESTMENT CORPORATION (NCIC)

Senate Bill 75 (SB75) was sponsored in 2011 by State Treasurer Kate Marshall, passed by the 2011 Legislature and signed into law by Governor Brian Sandoval in June 2011. The bill creates for the first time an in-state State-funded private equity program. SB75 defines the term “private equity” as “an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange”. Thus, it includes all sub-asset classes of private equity, including venture capital, growth and expansion capital, mezzanine investments, and buy-out opportunities. The bill establishes that at least 70 percent of all private equity funding by the NCIC is provided to businesses located in this State or seeking to locate in this State.

The full text of SB75 is at http://leg.state.nv.us/Session/76th2011/Bills/SB/SB75_EN.pdf.

1. Administration

SB75 created a separate corporation for public benefit to manage this program, called the Nevada Capital Investment Corporation (NCIC), with a separate board of directors (the “Board” or “Directors”) created to manage these private equity investments. The Board is initially set at seven members, with the State Treasurer acting as Chair. The other Board members are private citizens of Nevada nominated by officials from the executive and legislative branches. Board members serve four-year terms. Board members must have at least 10 years experience in investment management, finance, or banking. The Board must abide by Nevada’s Open Meeting Law for governmental agencies. The website for the Board is found at <https://nevadatreasurer.gov/NCIC.htm>.

The Board is responsible for oversight and administration of the program and is supported by staff from the State Treasurer’s Office (STO). The duties of the Board are enumerated in regulations and include:

- a. Creating the corporation for public benefit.

- b. Conducting regular public meetings.
- c. Providing an annual report to the Governor and to the Director of the Legislature Counsel Bureau on or before December 1 of each year.
- d. Securing the services of an independent, nationally recognized audit firm or requiring the fund-of-funds manager to secure the services of an independent, nationally recognized audit firm which will be charged with conducting an audit of the NCIC, with a final audit report delivered to the Governor and the Director of the Legislative Counsel Bureau.
- e. In collaboration with the Nevada System of Higher Education, endeavor to develop an internship program wherein NSHE students are partnered with selected businesses receiving support from the Private Equity Investment Fund, when feasible.
- f. Selection of a fund-of-funds asset manager, which shall be responsible for the selection of private equity funds.
- g. Ensuring that the Board adopt a Policy concerning the establishment of fair wages, fair benefits, and training on all contracts with businesses securing an investment from the NCIC, and that the Policy includes language concerning fair wages, fair benefits, and training. The definition of fair wages, fair benefits, and training is not restrictive in so much as it might not be practical in all markets.
- h. Creation of Policies and Procedures to include the following:
 - i. Policies and procedures for the conducting of meetings, legal representation, indemnification and fiduciary liability insurance, determination of a quorum, and other matters concerning Board meetings.
 - ii. Investment guidelines for fund-of-funds managers and/or underlying private equity funds to include: diversification guidelines (stage of investment, industry sectors, size of investments, vintage years), claw back provisions to be negotiated with private equity fund managers, fees and other compensation for private equity managers.
 - iii. Roles and responsibilities of the Board, Office of the State Treasurer, investment consultants (if any), Office of the Attorney General, fund-of-funds asset manager, and private equity managers.
 - iv. Allocation of returns on investments to investors, including the Permanent School Fund.
 - v. The return of the corpus of investments to investors after a defined investment period of no more than 10 years after the capital drawdown by the fund manager, plus any allowable extensions as provided in the partnership agreements of the private equity fund, unless a majority of the limited partners of the private equity fund approve further fund extension(s).
 - vi. Establishment of appropriate investment benchmarks for private equity fund managers and all investments.
 - vii. Reporting procedures.

- i. Review of the performance of the fund-of-funds manager and any strategic investments in accordance with investment and economic impact benchmarks set by the Board. The Board shall have the authority to terminate any agreements with the fund-of-funds manager in accordance with the termination and performance clauses of the contract based on legal, performance, qualitative, and other criteria.
- j. Creation of a Business Leadership Council comprised of Nevada business leaders and professional business development groups. Any costs incurred by the Business Leadership Council would not be paid by the fund-of-funds manager.

2. Staffing to NCIC

State Treasurer's Office ("STO") staff will provide administrative support to the Board. However, there is very limited STO staffing, so, at least initially, it is not anticipated that STO staff will take a large role in the investment function for the NCIC. The selected vendor will be expected to interface directly with the Board at Board meetings. Ultimately, STO staff may wish to receive training and education from the selected vendor, and the Board may direct STO staff to perform certain oversight responsibilities of the selected vendor, depending on available resources.

3. Funding of Program

The program is initially funded at a level of \$50 million. The source of this funding derives from the authorization by SB75 of up to \$50 million in private equity investments from the state's Permanent School Fund ("PSF"). Total assets under management of the PSF are approximately \$310 million. Investments in the fund currently consist solely of fixed income securities. In 2012, the Treasurer will implement a balanced portfolio for the fund consisting of fixed income, public equity, and with the adoption of SB75, private equity investments. State law requires that private and public equity investments must be managed by external asset managers.

SB75 allows for funding from outside sources, such as endowment funds, other governmental agencies, and private sources, to be combined with the initial \$50 million from the PSF for this program. There are currently discussions in process with several prospective institutional investors to invest with or alongside NCIC in this new program, but there are no guarantees regarding the decision by these outside investors to invest with NCIC in this program.

B. INVESTMENT STRUCTURE

1. Investment Structure

The current draft regulations set a hybrid structure for the program. The Board is required to contract with a fund-of-funds manager, with discretionary management authority, to manage the program. The fund-of-funds manager will have discretion to select underlying private

equity funds without approval required by NCIC. The fund-of-funds manager may also place direct and co-investments.

Current regulations also authorize the Board the ability to place up to \$10 million of the \$50 million in direct and co-investments with strategic investors and/or for unique private equity investment opportunities located in Nevada (jointly “strategic investments”), subject to certain conditions. These strategic investments may either be directly placed by the Board or through the fund-of-funds manager, as negotiated in the agreement with the fund-of-funds manager. If the latter, the agreement negotiated between the fund-of-funds asset manager and the Board shall set the terms and conditions for such Board-directed investments.

2. Geographic Constraints

SB75 establishes that at least 70 percent of all private equity funding by the NCIC is provided to businesses located in this State or seeking to locate in this State. However, SB75 is silent on a methodology for measuring compliance with this goal within a fund-of-funds structure. This will be defined in greater detail in the NCIC’s Investment Policy Statement (IPS), which has yet to be finalized. Ultimately, the selected fund-of-funds manager will be contractually obligated to meet this goal.

3. Program Goals

The primary goal of NCIC is to maximize risk-adjusted returns for the program within the geographic constraints identified above. The Board believes this is best achieved through a diversified private equity portfolio and has set diversification limits for investments in underlying private equity funds and co-investments in individual businesses. An ancillary benefit sought is to foster economic development and diversification in Nevada. The selected vendor will be expected to measure, track, and report on economic development metrics, such as the number of Nevada businesses receiving investments, number of jobs created, etc. Investment and economic development metrics and/or benchmarks will be established in consultation with the selected vendor subsequent to their appointment.

4. Other Constraints

SB75 does not establish any target asset allocation or minimum allocations between sub-asset classes of private equity (e.g., 20% to venture capital, 40% to growth capital, and 20% to buyout). It is anticipated that the selected vendor will work with the Board to set such an asset allocation. SB75 does identify key industries that fund managers may invest in, but it also allows investment in other industries and sectors that are important to Nevada. In drafting SB75, the State Treasurer believed that preemptive “top down” decisions from a political body or board were inappropriate and were contrary to the program’s stated goal of maximizing risk-adjusted returns.

5. Self-Liquidating Program

Current state law requires that interest on investments in the PSF be distributed by the investment manager(s) back to the PSF. Because current state law was written years ago, when the PSF was managed as a fixed income portfolio, there is a lack of clarity about whether realized gains from a private equity program must be returned immediately to the PSF. For that reason, an advisory opinion from the Nevada Attorney General's Office is being sought to clarify this matter. Additionally, "clean-up" legislation may be pursued in the 2013 Legislative Session to establish a more appropriate methodology for the distribution of returns to PSF that is more suitable to a balanced portfolio consisting of fixed income, public equity, and private equity. Until either route provides clarity on this issue, this program will be considered a "self-liquidating" or "non-recycling" program in which realized gains must be returned to NCIC for distribution back to the PSF.

C. LEGAL STRUCTURE OF NCIC

SB75 requires the creation of a corporation for public benefit, which is defined by SB75 as a 501(c)(3) non-profit corporation. The Nevada Attorney General's Office is currently researching issues related to this requirement and whether the NCIC may instead be formed as a corporation for public benefit without filing as a non-profit corporation.

D. REGULATIONS

SB75 requires the State Treasurer to file regulations establishing the operations and certain policies and procedures governing NCIC. These regulations have been drafted by the STO and transmitted to the Legislative Counsel Bureau (LCB) for final editing and drafting. These draft regulations can be found on the NCIC website at <https://nevadatreasurer.gov/NCIC.htm>. The final adopted regulations may differ from these draft regulations.

II. ACRONYMS/DEFINITIONS

For the purposes of this RFP, the following acronyms/definitions will be used:

<i>Anti-Money Laundering Laws</i>	Those laws, rules, regulations, orders and sanctions, state and federal, criminal and civil, that (a) limit the use of and/or seek the forfeiture of proceeds from illegal transactions; (b) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotic dealers or otherwise engaged in activities contrary to the interests of the United States; (c) require identification and documentation of the parties with whom a financial institution conducts business; or (d) designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations and sanctions shall be deemed to include the United States Presidential Executive Order Number 13224 on Terrorism Financing (September 23, 2001) (hereafter, Executive Order), the Patriot Act, the Bank Secrecy Act, Public Law No. 91-508,
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	84 Stat. 1305 (1970), the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., the International Emergency Economics Powers Act, 50 U.S.C. Section 1701 et seq., and the sanction regulations promulgated pursuant thereto by OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957, as amended.
<i>Awarded Vendor</i>	The organization/individual that is awarded and has an approved contract with the State of Nevada for the services identified in this RFP.
<i>Board</i>	The Board of the Nevada Capital Investment Corporation
<i>Confidential Information</i>	Any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost or price submitted in support of a bid or proposal. The term does not include the amount of a bid or proposal. See NRS §333.020(5)(b).
<i>Directors</i>	The Board members of the Nevada Capital Investment Corporation
<i>ETI</i>	Economically targeted investments - investments that are selected for the economic and social benefits they create in addition to the investment return to the investor.
<i>Evaluation Committee</i>	An independent committee comprised of a majority of State officers or employees established to evaluate and score proposals submitted in response to the RFP pursuant to NRS §333.335.
<i>IPS</i>	The Investment Policy Statement for the Nevada Capital Investment Corporation, which is currently being drafted and not in final form.
<i>IRR</i>	Internal Rate of Return
<i>ISTIP</i>	In-state and/or targeted investment program – a type of ETI established by states, public pension systems and other agencies that include geographic, industry or other constraints. The NCIC’s program is an example of an ISTIP. Common types of ISTIP are private equity programs established by states in which investments are restricted to businesses located in a state or region.
<i>LOI</i>	Letter of Intent - notification of the State’s intent to award a contract to a vendor, pending successful negotiations; all information remains confidential until the issuance of the formal notice of award.
<i>May</i>	Indicates something that is not mandatory but permissible.
<i>NAC</i>	Nevada Administrative Code

<i>NCIC</i>	Nevada Capital Investment Corporation, which is the corporation for public benefit that is being formed pursuant to SB75 and which is responsible for management of up to \$50 million from the Permanent School Fund in private equity investments.
<i>NRS</i>	Nevada Revised Statutes
<i>NOA</i>	Notice of Award - formal notification of the State's decision to award a contract, pending Board of Examiners' approval of said contract, any non-confidential information becomes available upon written request.
<i>Patriot Act</i>	The USA PATRIOT Act of 2001, Public Law No. 107-56, together with all laws rules, regulations and orders issued in connection therewith.
<i>Private Equity</i>	An investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange. As such, the definition of private equity here is a broad one that includes the sub-asset classes of venture capital, growth capital, mezzanine investments and buy-out opportunities.
<i>Prohibited Person</i>	Any person or entity: (a) listed in the Annex to, or otherwise subject to the provision of the Executive Order, (b) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of the Executive Order, (c) with whom Vendor is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order, (d) who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order, (e) that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Department of the Treasury, Office of Foreign Assets Control at its official website or other official publication of such list, or (f) who is an Affiliate of a person or entity listed above.
<i>Proprietary Information</i>	Any trade secret or confidential business information that is contained in a bid or proposal submitted on a particular contract.
<i>PSF</i>	Permanent School Fund, which was established in Article 11, Section 3 of the Nevada Constitution. The sources of funding for this fund are: land granted by Congress to the State for educational purposes; all estates escheated to the State; all property given or bequeathed to the State for educational purposes; and fines collected under the penal laws of the State. The State Constitution requires that all moneys "are hereby pledged for educational purposes and the money therefrom must not be transferred to other funds for other uses." Interest and other investment income on the corpus of the fund may only be spent for

	educational purposes.
<i>PT</i>	The current Pacific Time.
<i>Public Record</i>	All books and public records of a governmental entity, the contents of which are not otherwise declared by law to be confidential (see NRS §333.333 and NRS §600A.030(5)) must be open to inspection by any person and may be fully copied or an abstract or memorandum may be prepared from those public books and public records.
<i>Regulation</i>	An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency (NRS §233B.038). A proposed regulation must go through a formalized rulemaking process in order to be finalized and part of the Nevada Administrative Code (NAC).
<i>RFP</i>	Request for Proposal - a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection NRS §333.020(7).
<i>SB75</i>	Senate Bill 75 (2011), which was signed into state law in 2011 and authorizes up to \$50 million from the Permanent School Fund in private equity investments subject to certain requirements and parameters. This law amended NRS §355.060.
<i>Shall/Must/Will</i>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.
<i>Should</i>	Indicates something that is recommended but not mandatory. If the vendor fails to provide recommended information, the State may, at its sole option, ask the vendor to provide the information or evaluate the proposal without the information.
<i>State</i>	The State of Nevada and any agency identified herein.
<i>State Treasurer</i>	Nevada State Treasurer Kate Marshall.
<i>STO</i>	Nevada State Treasurer's Office
<i>Subcontractor</i>	Third party, not directly employed by the vendor, who will provide services identified in this RFP. This does not include third parties who provide support or incidental services to the vendor.
<i>Trade Secret</i>	Means information, including, without limitation, a formula, pattern, compilation, program, device, method, technique, product, system, process, design, prototype, procedure, computer programming instruction or code that: derives independent economic value, actual or

	potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other person who can obtain commercial or economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
<i>Vendor</i>	Organization/individual submitting a proposal in response to this RFP.
<i>Venture Capital</i>	As defined by SB75, “equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.”

III. SCOPE OF WORK

The construction of an in-state private equity program requires additional skills and sensitivities versus that of a non-ETI program, especially in Nevada, which lacks a developed private equity ecosystem and which has previously not operated this kind of program. Some of the skills required of such a manager would include:

- An understanding of the environmental elements that must be in place to support private equity in this state. The design of a program should consider a realistic appraisal of the private equity infrastructure in this state.
- The building and development of private equity funds that meet the geographic and other constraints of SB75. As opposed to merely selecting top-tier funds, the fund-of-funds manager may need skills in customizing and building a program and mentoring emerging managers and their funds.
- The matching of opportunities in Nevada with the design of the program and an understanding of this state’s comparative advantages and disadvantages.

The Board believes that the nature and decision-making process involved in an ETI program is therefore different than a standard fund-of-funds management approach in which the fund-of-funds manager screens for and builds a program using national top-tier managers. Accordingly, the awarded vendor would need to provide the following services in building an in-state private equity program in Nevada:

A. GEOGRAPHIC PRESENCE

Establish a geographic presence in Nevada, preferably by establishing an office(s) within the State of Nevada to be staffed at a minimum on a part-time basis by an employee(s) who actively seek opportunities for investments in businesses located in this state. The selected vendor should be available to coordinate and direct requests for funding from interested businesses in Nevada to the underlying private equity fund managers.

B. DEVELOPMENT OF INVESTMENT PLAN

1. Perform market research to determine probable deal flow in Nevada and to scale the amount of NCIC's investments in each sub-asset class to the number of funds and/or qualified businesses available.
2. Establish an investment plan for the investment of moneys using the following criteria:
 - a. Setting an asset allocation such that no more than \$15 million, or 30%, of the total capital commitments of the NCIC shall be invested in a single private equity fund. The asset allocation shall establish a diversified portfolio of private equity investments that may include venture capital, growth capital, buyout investments, mezzanine financing, or secondary investments in private equity.
 - b. The initial investment in any single business made by NCIC in co-investments may not exceed \$3.75 million. Recognizing the possibility of subsequent capital calls and "cram down" clauses, the total authorized investment by the NCIC in any single business may not exceed \$7.5 million.
 - c. The investment plan should allow for the Board to direct up to \$10 million of NCIC's total capital commitment in unique private equity co-investments located in Nevada. The contract negotiated between the fund-of-funds asset manager and the Board shall set the terms and conditions for such Board-directed investments.
3. Through the selection of private equity funds, help create a private equity "pipeline" in which start-up businesses can seek funding from the start-up and early venture capital stage to the growth and expansion capital stage and overcome the "Valley of Death" common to emerging private equity ecosystems.
4. Be aware of and apprise the Board of governmental assistance programs, such as U.S. Small Business Administration programs and other non-federal programs that may be used to leverage or otherwise provide funding to this program. When appropriate, pursue such partnerships and funding opportunities.
5. Promote the investment of funds in qualified companies that seek to:
 - a. Result in greater returns for the state's Permanent School Fund.
 - b. Secondly, will increase economic development and employment in Nevada.

C. MARKETING, NETWORKING AND TRAINING INITIATIVES

1. Work to develop relationships with key in-state parties, including government, educational, corporate, entrepreneurial, and private equity/venture capital organizations; work to foster cooperation among these key constituencies.
2. Work with venture capital and entrepreneurial organizations to organize regional forums and conferences.

D. INVESTMENT MANAGEMENT SERVICES

1. Selection of private equity funds for investment of moneys held by the NCIC subject to the guidelines, policies, and procedures set by the Board. Due to the geographic constraints mandated by SB75 and lack of experience of many fund managers in Nevada, some of these private equity funds may need to include emerging managers.
2. Selection of direct and co-investments, when appropriate. The initial investment in any single business made by NCIC in co-investments may not exceed \$3.75 million. Recognizing the possibility of subsequent capital calls and “cram down” clauses, the total authorized investment by the NCIC in any single business may not exceed \$7.5 million.
3. Negotiation and execution of partnership agreements with private equity funds and management of the day-to-day activities of the program.
4. Perform regular due diligence of each selected private equity fund, including a review of each fund’s annual financial statements and on-site visits with the management of each fund at least annually. The manager shall provide a report on each selected private equity fund at least once a year. The manager shall comply with legal and industry standards as it relates to due diligence responsibilities of private equity funds.
5. Review the performance of any investment made by the NCIC, including any strategic investments directly selected by the Board.
6. Execute investment decisions based on an evaluation of the following criteria:
 - a. The company’s probability of success and expected investment return.
 - b. Secondly, diversification of the economic base of the State of Nevada, including the generation and retention of jobs and investments in the State of Nevada.
7. Jointly develop investment benchmarks and other program metrics with the Board.
8. Assist in the drafting of the NCIC’s IPS with STO staff and the Board.

E. COMPLIANCE

1. Shall ensure that a minimum of 70% of the total amount invested by NCIC in private equity funds, or \$35 million, whichever is less, is invested by the selected private equity funds in businesses that meet the criteria outlined in Section 6, subsection 2 of SB75.
2. Shall ensure that business receiving venture capital investments pursuant to section 2 to 7, inclusive, of SB75 have a presence in this State as evidenced by: the following criteria:
 - a. Are domiciled in this State;
 - b. Have their corporate headquarters in this State;
 - c. Have a significant percentage of their employees based in this State; or
 - d. Are in the process of planning an expansion in or relocation in this State.
3. Shall ensure that all businesses receiving a direct investment and relocating to Nevada will contain:

- a. Performance stipulations outlining a minimum period of residence in the State of Nevada, including payback clauses; and
- b. Penalties for failure to meet performance stipulations, including payback clauses.

F. ADMINISTRATIVE FUNCTIONS

1. A principal of the firm or an employee of the firm with decision-making authority shall attend all NCIC Board meetings in person.
2. Maintain an NCIC website that includes contact information for Nevada businesses to seek investment opportunities, a calendar for upcoming events, reports, and general information about the NCIC and its programs.
3. Prepare the annual report as required by SB75 and any other reports directed by the Board. The selected vendor will be expected to measure, track, and report on economic development metrics, such as the number of Nevada businesses receiving investments, number of jobs created, etc.
4. Secure the services of an independent, nationally recognized audit firm to provide annual audited financial statements of the NCIC.
5. Secure legal services related to transactions with private equity funds, co- and direct investments and other matters.
6. Provide assistance to the Board and STO staff in preparing and, when necessary, attending marketing events, networking opportunities, meetings with economic development agencies and other government agencies, and with other institutional investors.
7. Provide assistance to the Board and STO staff in preparing presentations and attending meetings, when appropriate, with other institutional investors in Nevada that may be potential co-investors with the State in this program.

IV. MINIMUM REQUIREMENTS

A vendor must meet the following minimum qualifications. Failure of a firm to meet these minimum qualifications will result in the Proposal's immediate rejection.

- The firm or one of the firm's principals must have at least ten (10) years experience as a fund-of-funds manager of private equity funds or comparable institutional investment experience in private equity.
- Must be a registered investment advisor with the Securities and Exchange Commission or obtain such within three months of being selected by the Board.
- The vendor must be registered to conduct business in Nevada, or become duly qualified to do business in Nevada as a foreign business entity before a contract can be executed.
- The vendor must accept the State's standard contract form, although modifications are acceptable.

- The firm selected must demonstrate its capability in tracking investment performance and the collateral benefits of its investments. Although economic benefits will not justify a lower return on any investments in this program, they should be a natural output of the program and must be tracked.

In your cover letter transmitting your RFP response, please re-type the above minimum requirements and indicate your acceptance of all the above with a signature by an authorized representation of the firm.

V. SUBSTANTIVE SCORED QUESTIONS

Read thoroughly before formulating a response. Failure to comply with instructions, format requirements, and/or other requirements may result in your response being classified as “unresponsive.” **Please restate the question followed by your response.**

A. FIRM BACKGROUND AND PROFESSIONAL STAFF

1. Firm’s Background

a. Company ownership (sole proprietor, partnership, etc).

- i. Incorporated companies must identify the state in which the company is incorporated and the date of incorporation. Please be advised, pursuant to NRS §80.010, incorporated companies must register with the State of Nevada, Secretary of State’s Office as a foreign corporation before a contract can be executed between the State of Nevada and the awarded vendor, unless specifically exempted by NRS §80.015.
- ii. The selected vendor, prior to doing business in the State of Nevada, must be appropriately licensed by the Office of the Secretary of State pursuant to NRS §76. Information regarding the Nevada Business License can be located at <http://sos.state.nv.us>. Vendors must provide the following:
 - Nevada Business License Number
 - Legal Entity Name
 - Is “Legal Entity Name” the same name as vendor is doing business as? [] Yes [] No
If “No,” provide explanation.

b. Describe the nature of your firm and its primary business activities (i.e., the primary sources of revenue by major business unit categories and respective percentages), its legal structure, and the year the firm was founded. If your firm’s in-state and/or targeted investment program (“ISTIP”) is part of a larger organization, also state the parent’s legal name.

- c. State the year your organization/firm began an ISTIP. If your firm is part of a larger organization, please describe your firm’s relationship to the parent organization and describe any influence or authority of the parent organization over the decision making process of your firm.
 - d. Provide an organizational chart of the entire organization and how your ISTIP fits into the entire organization and include the most recent financial statements (audited preferred) for your firm/parent organization, and include as **Exhibit A**.
 - e. Is your firm a registered minority-business enterprise (MBE)/women-owned business enterprise (WBE) firm or veteran-owned?
 - f. Provide information that details the representation of women, minorities, and disabled persons in professional positions within your firm for the past three (3) years. Please describe your policy(ies) for the hiring of women, minorities, and disabled persons and/or the subcontracting of services with MBE/WBE/veteran-owned businesses.
 - g. Describe any anti-terrorism and anti-money laundering policies your firm maintains. If your firm invests monies outside the United States, indicate how you maintain compliance with federal executive orders regarding terror-sponsoring nations.
2. List your firm’s key professionals in the matrix provided below in order of importance to the NCIC relationship. Identify with an asterisk (*) after the names of those who will be assigned to the Program account. Provide detailed biographies including a description of present responsibilities, the number of funds and total assets being managed for each person identified in the matrix, and include as **Exhibit B**.

Name	Title	Location	Responsibility	Investment Experience (yrs)		
				w/ firm	prior to firm	Total

- 3. Provide assets under management (AUM) and percentage of total firm revenues broken down by product category, and by discretionary versus non-discretionary accounts. Please highlight your private equity experience (including venture capital and all sub-asset classes of private equity).
- 4. Indicate if your firm is a Registered Investment Advisor under the Investment Company Act of 1940 and if so, attach the current SEC ADV Parts I and II, and include as **Exhibit C**.

5. Has your parent organization, firm, or any of the partners/key professionals been involved with any contract failures, contract breaches, or any civil or criminal litigation in the past five years? If so, please provide an explanation and the current status of such litigation. **[NOTE: FAILURE TO DISCLOSE ALL INFORMATION MAY RESULT IN THE REJECTION OF YOUR PROPOSAL.]**

6. Please disclose any prior or ongoing disciplinary action by regulators or alleged significant prior or ongoing investigation pending which involves the vendor or vendor's partners/key professionals in the last five years. **[NOTE: FAILURE TO DISCLOSE ALL INFORMATION MAY RESULT IN THE REJECTION OF YOUR PROPOSAL.]**

7. Please disclose the nature of any business or contractual relationship you now have or have had with any current NCIC Board member and STO staff.

8. Has the vendor ever been engaged under contract by any State of Nevada agency?
 Yes No
 If "Yes," specify when, for what duties, and for which agency.

9. Is the vendor or any of the vendor's employees employed by the State of Nevada, any of its political subdivisions or by any other government?
 Yes No If "Yes," is that employee planning to render services while on annual leave, compensatory time, sick leave, or on his own time?

10. Financial information and documentation to be included in Part III of your response in accordance with the Submittal Instructions.
 - i. Dun and Bradstreet number
 - ii. Federal Tax Identification Number
 - iii. The last two - (2) years and current year interim:
 Profit and Loss Statement
 Balance Statement

B. TARGETED INVESTMENT PROGRAM EXPERIENCE

1. Describe in greater detail your organization's investment experience and approach to investing in private equity partnerships, and more specifically, under ISTIPs. Using the table below, list all ISTIPs your firm has managed as fund-of-funds manager.

If your firm has relatively little or no experience managing ISTIPs, but management personnel assigned to this account do, list that experience in a separate table using the same format as below.

Plan Sponsor Name	Contact Name, Title, and Phone Number	Year Program Began; Type of investment program (VC,BO, etc)	AUM: Total targeted program as of 6/30/11 (in mil.)	Total committed as of 6/30/11 (in mil.)	Total # of funds committed to as of 6/30/11

2. Describe your approach or business model for building and customizing this kind of program for state clients and approximate timeframes for fulfilling each phase. Where you have experience, provide examples and descriptions of other ISTIPs: the year they were initiated, progress made-to-date, and discuss the successes and challenges (and how those challenges were addressed).
3. Describe your firm's experience in each major sub-asset class of private equity:
 - a. Venture Capital
 - b. Growth/Expansion Capital
 - c. Mezzanine
 - d. Buy-Outs
 - e. Other (distressed debt, secondaries)

Does your firm specialize in any particular sub-asset class above? If your firm does not have experience in any of the areas above, how do you propose to address that deficiency?

4. What experience does your firm have with private equity investments in the State of Nevada? What do you believe will be the major challenges in establishing the Program in Nevada?
5. Provide a description of your strategy for investing in private equity partnerships. If this strategy differs in any way from your current ISTIP funds, please describe how it differs and why it differs. What have you learned from other targeted investment programs that might be integrated in operating the Program? Discuss the kinds of measurable objectives your firm might establish for the Program at the three, five, and ten year anniversaries.
6. Please discuss how your firm screens and sources private equity funds. What factors are most important in choosing or declining these funds?

7. Provide at least three references whom we may contact. References should be clients of your ISTIP (note with an “ * ” after your client’s Plan Sponsor Name); otherwise, provide clients of your general private equity programs. Please secure advanced approval from any reference you provide below. Vendors are required to submit Attachment D, Reference Form, to the business references they list. The business references must submit the Reference Form directly to the NCIC designee. It is the vendor’s responsibility to ensure that the completed forms are received by NCIC on or before the proposal submission deadline for inclusion in the evaluation process. Business References that are not received, or are not complete, may adversely affect the vendor’s score in the evaluation process. NCIC may contact any or all business references for validation of information submitted.

8. Does this proposal include the use of subcontractors? If “Yes”, vendor must:
 - Identify specific subcontractors and the specific requirements of this RFP for which each proposed subcontractor will perform services.
 - Provide the same information for any proposed subcontractors as requested in the Primary Vendor Information section.
 - References as specified above must be provided for any proposed subcontractors.
 - The State requires that the awarded vendor provide proof of payment to any subcontractors used for this project. Proposals shall include a plan by which the State will be notified of such payments.
 - Primary vendor shall not allow any subcontractor to commence work until all insurance required of the subcontractor is provided to the using agency.
 - Primary vendor must notify NCIC of the intended use of any subcontractors not identified within their response and receive agency approval prior to subcontractor commencing work.

C. PROJECT APPROACH

1. Describe the challenges of (a) initiating and (b) operating the Program. What issues might be encountered in developing an in-state fund-of-funds program and explain what measures you might initiate to mitigate these issues. From the commencement of the Program, describe in detail the various phases of organizing and establishing the Program until the point of committing capital to the Program’s first fund. Also describe the kinds of ancillary activities your firm will pursue during the entire span of the commitment period to better ensure Program success.

2. What can NCIC expect to see in terms of the overall IRR and capital multiple at the end of the life of the Program. How does your firm set an expected “hurdle rate” or expected IRR for the Program?

3. Timing of Program Implementation

a. How would you structure the Program with respect to the total length of the Program? Define the various stages and outline the related timeframes until the end of the Program. Please provide a timeline.

b. Describe the process to wind down an ISTIP.

4. Provide a list of the scope of services that you have in place with other ISTIP clients to effectively manage and operate an ISTIP. Are there any costs or services associated with this Program, other than Board administration, that you do not provide and which the State will need to fund?

5. Describe how NCIC staff can participate in the investment process while still preserving the Program manager's full-discretionary mandate. What are the responsibilities (if any) of the client in achieving success with the Program? How have your other clients actively participated or assisted in their ISTIP?

6. Presence in Nevada

a. Based on the fact that the selected vendor will be required to make on-site presentations to the NCIC, the Legislature, economic development agencies, universities, and other entities, as well as conducting training and networking seminars in Nevada and other activities associated with this Program, how many days per year do you anticipate you would be in Nevada?

b. Do you intend to open an office in Nevada? If so, where would you locate such office(s)? Would this office(s) be staffed part- or full-time?

7. Market Research

a. What research has your firm performed or will perform if engaged by NCIC to determine the viability of the State's private equity community? Will this research be conducted by in-house staff, outside consultants, academic research, non-profit research organization, independent research firm, other?

b. What do you estimate to be the size of the funding gap between the needs of the State's private equity industry and the amount already available on an annual basis for the next five years? On what source of information or research do you base your estimates of such a gap, and what is the rationale for your estimate?

- c. What do you believe is an appropriate-sized commitment range for the initial Program? On the other hand, given your research and experience, at what level do you think the Program ultimately would be too large?
- d. How can the amount of investments be scaled to the number of funds and/or qualified businesses available?

8. Asset Allocation Decisions

- a. SB75 does not require or provide guidance on the allocation between the sub-asset classes within private equity (venture capital, growth capital, buyouts, etc.). Describe the decision-making process you will use to make asset allocation decisions and other diversification decisions (i.e., diversification by industry) for this Program.
 - b. Do you have any opinions or thoughts regarding the allocation between the sub-asset classes within private equity (venture capital, growth capital, buyouts, etc.) for this Program?
 - c. Describe how and at what point you will involve the Board in these decisions.
 - d. Given that this is a self-liquidating program and based on your asset allocation recommendations, will the age of this program affect the quality of funds we will be able to invest in?
9. Has your firm already identified potential investment opportunities for the Program? If so, please name any candidate funds or opportunities in the pipeline and/or the number of investment opportunities.

10. Networking/Mentoring/Marketing Duties

- a. Describe your experience in providing networking and marketing initiatives in other states in which you have acted as manager for an ISTIP.
 - b. How will you increase the visibility of the Program to the local community and the wider venture capital/private equity community? Discuss any marketing and networking initiatives you have used with other clients and any marketing initiatives you may feel are appropriate for ensuring interest in the Program.
11. What distinguishes your firm's ISTIPs (including value-added benefits) over your competitors?

D. CO-INVESTMENT AND DIRECT INVESTMENT EXPERIENCE

1. We recognize that a fund-of-funds manager does not normally make co- and direct investments. Describe your firm's experience in making co- and direct private equity investments for both ISTIPs you manage and other non-ISTIP programs.
2. The current structure for this Program is a hybrid structure in which co- and direct investments or partnerships with strategic investors, rather than funds, may be considered.
 - a. Do you have concerns about this structure?
 - b. If your firm has no direct or co-investment experience, describe how your firm proposes to provide this expertise for this Program, i.e., whether through partnerships with other firms, a co-proposal with another firm, etc.
3. The current draft regulations allow for either the NCIC Board or the fund-of-funds manager to make direct or co-investments. This raises the issue of how to accommodate co-investments directed by the Board within a fund-of-funds manager structure. The Board can place these investments directly without involvement of the fund-of-funds manager, or through the fund-of-funds manager if permitted by the contract with the fund-of-funds manager. The Board may wish to place co-investments through the fund-of-funds manager, where the fee charged by the manager for these Board-directed co-investments is adjusted to reflect the lower cost to the fund-of-funds manager.
 - a. Do you have concerns about Board-directed strategic investments? If so, how would you mitigate these concerns?
 - b. Describe how you would intend to accommodate Board-directed strategic/co-investments.

E. DUE DILIGENCE PROCESS AND OPERATIONS

1. Describe due diligence, including:
 - a. The process or sequence of events in evaluating a fund, and the time involved from sourcing a potential fund until NCIC executes documents to become an investor.
 - b. Describe the evaluation of a fund's team; track record (including how the track record is verified and credited to specific team members); operations; accounting and financial integrity and analysis; site visits; and reference checks. If you use a due diligence checklist or form, please include in **Exhibit D**.

- c. Are any third party resources utilized and, if so, in what capacity and why are they used?
 - d. Describe your legal review process. Do you have in-house legal counsel or is it outsourced?
 - e. What are key factors in deciding to make an investment in or to decline a fund? Who makes the ultimate decision within your firm and describe the process?
 - f. Describe your financial/operational intervention techniques with underlying funds with troubled investments.
 - g. Provide a sample of a due diligence report on a fund with a recommendation to make an investment and a sample of a due diligence report on a fund with a recommendation to decline an investment. Include in [Exhibit E](#).
2. Please list the names of your service providers for the following or whether these activities are handled internally:
 - a. Auditing
 - b. Legal
 - c. Accounting
 - d. Consulting
 - e. Any other services

F. FUND STRUCTURE

1. What do you believe would be the ideal account/legal structure for the Program, i.e., a Limited Partnership, Limited Liability Company, etc?
2. Explain any issues NCIC may encounter as an investor (LP) versus the service provider (your firm as GP to NCIC) versus the underlying general partners. What legal documents will NCIC need to execute with the underlying fund GPs, if any?
3. The Board currently intends to use a discretionary fund-of-funds manager structure for this Program. However, the Board has flexibility regarding the compensation structure for this program and would also consider a non-traditional discretionary manager compensation structure where, as an example, there is no carry fee. Would you prefer this kind of different compensation structure or contractual relationship? If so, why?

G. PERFORMANCE/REPORTING

1. Please show the performance of each of your previous or current ISTIPs using the grid in Attachment 1.
2. Please show the performance of each of your previous or current non-ISTIP fund-of-funds programs using the grid in Attachment 2. You may expand the table format in Attachment 3 to accommodate all fund-of-funds you manage.
3. Please use the format provided in Attachment 3 to show your underlying partnership investment performance. Please list all partnerships. You may expand the table format in Attachment 3 to accommodate all underlying partnerships.
4. Do you have any internal policies or have you adopted any industry-standard guidelines in determining valuations? Describe your firm's requirements for how and when portfolio companies and funds are valued.
5. What criteria will you use to evaluate the success of the Program? What benchmark(s) will you use (if any), how are they chosen, and how are they constructed and/or calculated?
6. How many years do you estimate it will take for the Program performance to emerge from the "J" curve?
7. Describe the methodology for calculating the Internal Rate of Return (IRR) for the overall Program. Discuss the various metrics and other criteria that can be used by the Board and staff to evaluate the performance of the Program at various stages over the life of the program, especially those criteria that are qualitative or non-financial. Describe how you propose to measure these.
8. Reporting
 - a. Please provide at least one sample report of performance and/or management reports you would provide to the Board in **Exhibit F**. If this differs from reports provided to the public or on a website, please provide those public reports as well.
 - b. Will you maintain a website for the NCIC? If you intend to utilize a similar format for a website as one of your other ISTIP clients, please provide the URL's for those websites.

VI. FEE PROPOSAL

Note: All Fee Proposals shall be submitted to NCIC as a separate, sealed package and clearly marked: “Fee Proposal in Response to NCIC RFP No. 001”, please refer to the Submittal Instructions for further instruction.

1. Prospective vendors must submit their proposed fee in the same format as described in Attachment 4. The proposed fee shall include all costs for providing services to the NCIC through a fund-of-funds structure as described in the Scope of Work. The proposed fees must include travel, taxes, and all normal operating expenses. The proposed fees must include all costs associated with your in-state personnel. All monetary values must be in United States dollars. The fee proposal is subject to negotiation by the NCIC.
2. What capital commitment will your firm make to this program?

VII. SUBMITTAL INSTRUCTIONS

1. In lieu of a pre-proposal conference, the State Treasurer will accept questions and/or comments in writing, received either by mail or e-mail regarding this RFP as follows:

Questions must reference the identifying RFP number and be addressed to the State of Nevada, State Treasurer

Office of the State Treasurer
Attn: Christina Hadwick
101 North Carson Street, Suite 4
Carson City, NV 89701-4786

or e-mailed to treas-rfp@nevadatreasurer.gov. The deadline for submitting questions is **February 8, 2012** at 3:00 p.m. Responses to all submitted questions and/or comments will be addressed in writing and e-mailed to prospective vendors on or about February 17, 2012. Please provide your company name, address, phone number, fax number, e-mail address and contact person when submitting questions.

2. RFP Timeline (all times are Pacific Time)

<i>TASK</i>	<i>DATE/TIME</i>
Release of RFP	January 25, 2012
Deadline for submitting questions	February 8, 2012 (3:00pm)

Answers to all questions submitted available on or about February 17, 2012

Deadline for submission and opening of proposals **March 9, 2012 (3:00pm)**

Evaluation period Mar. 10 to Apr. 6, 2012

Board interviews of short-listed firms Week of April 16, 2012

Selection of vendor on or about April 20, 2012

NOTE: These dates represent a tentative schedule of events. The State reserves the right to modify these dates at any time, with appropriate notice to prospective vendors.

3. Vendors shall submit their response in three (3) parts as designated below:

Part I: Technical Proposal

One (1) original marked "MASTER"

Ten (10) identical copies

One (1) identical copy on CD (Note: CD must be labeled accordingly and in a case.)

The Technical Proposal must include a separate tab/section labeled "**state documents**" which shall include:

- Page 1 of RFP
- All Amendments to the RFP
- All Attachments requiring signature
- Certificate of Insurance

Technical Proposal must not include cost or confidential information.

Technical Proposal shall be submitted to the State in a sealed package and be clearly marked:

"Technical Proposal in Response to NCIC RFP No. 001"

Part II: Fee Proposal:

One (1) original marked "MASTER"

Ten (10) identical copies

One (1) identical copy on CD (Note: CD must be labeled accordingly and in a case.)

Fee Proposal shall be submitted to the State in a sealed package and be clearly marked:

"Fee Proposal in Response to NCIC RFP No. 001"

Part III: Confidential Information:

One (1) original marked "MASTER"

Confidential Information shall be submitted to the State in a sealed package and be clearly marked:

"Confidential Information in Response to NCIC RFP No. 001"

If the separately sealed proposal, marked as required above, are enclosed in another container for mailing purposes, the outermost container must fully describe the contents of the package and be clearly marked:

NCIC REQUEST FOR PROPOSAL NO. 001

PROPOSAL OPENING DATE: March 9, 2012 @ 3:00 P.M.

FOR: Private Equity Fund-of-Funds Manager

Proposal shall be submitted to:

Office of the State Treasurer
Attn: Christina Hadwick
101 North Carson Street, Suite 4
Carson City, NV 89701-4786

4. **Proposals must be received at the above-referenced address no later than 3:00 pm, March 9, 2012.** Proposals that do not arrive by proposal opening time and date WILL NOT BE ACCEPTED. Vendors may submit their proposal any time prior to the above stated deadline.
5. The State will not be held responsible for proposal envelopes mishandled as a result of the envelope not being properly prepared. Facsimile, e-mail or telephone proposals will NOT be considered; however, at the State's discretion, a proposal may submitted all or in part on electronic media, as requested within the RFP document. Proposals may be modified by facsimile, e-mail or written notice provided such notice is received prior to the opening of the proposals.
6. Although it is a public opening, only the names of the vendors submitting proposals will be announced (NRS §333.335(6)). Technical and cost details about proposals submitted will not be disclosed. Assistance for handicapped, blind or hearing-impaired persons who wish to attend the RFP opening is available. If special arrangements are necessary, please notify Christina Hadwick as soon as possible and at least two days in advance of the opening.
7. If discrepancies are found between two or more copies of the proposal, the master copy will provide the basis for resolving such discrepancies. If one copy of the proposal is not clearly

marked "MASTER," the State may reject the proposal. However, the State may at its sole option, select one copy to be used as the master.

8. For ease of evaluation, the proposal should be presented in a format that corresponds to references and sections outlined within this RFP and should be presented in the same order. Responses to each section and subsection should be labeled so as to indicate which item is being addressed. Exceptions to this will be considered during the evaluation process.
9. If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the proposal and specific references made to the tab, page, section and/or paragraph where the supplemental information can be found.
10. Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc., are not necessary or desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
11. Descriptions on how any and all equipment and/or services will be used to meet the requirements of this RFP shall be given, in detail, along with any additional information documents that are appropriately marked.
12. The proposal must be signed by the individual(s) legally authorized to bind the vendor (NRS §333.337).
13. For ease of responding to the RFP, vendors are encouraged, but not required, to request an electronic copy of the RFP. Electronic copies are available in either Microsoft Word[®] via e-mail, or on the State Treasurer's website in PDF format at <https://nevadatreasurer.gov>. When requesting an RFP via e-mail, vendors should contact the Treasurer's Office for assistance.
14. Vendors utilizing an electronic copy of the RFP in order to prepare their proposals should place their written response in *an easily distinguishable font* immediately following the applicable question.
15. ***For purposes of addressing questions concerning this RFP, the sole contact will be Christina Hadwick of the State Treasurer's Office. Upon issuance of this RFP, other employees and representatives of the agencies identified in the RFP will not answer questions or otherwise discuss the contents of this RFP with any prospective vendors or their representatives. Failure to observe this restriction may result in disqualification of any subsequent proposal (NAC §333.155(3)).*** This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.
16. Vendor who believes proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a request for administrative review, in writing, to the State Treasurer. To be considered, a request for review must be **received** no later than the deadline for submission of questions.

The State Treasurer shall promptly respond in writing to each written review request, and where appropriate, issue all revisions, substitutions or clarifications through a written amendment to the RFP.

Administrative review of technical or contractual requirements shall include the reason

for the request, supported by factual information, and any proposed changes to the requirements.

17. If a vendor changes any material RFP language, vendor's response may be deemed non-responsive (NRS §333.311).
18. Vendors are cautioned that some services may contain licensing requirement(s). Vendors shall be proactive in verification of these requirements prior to proposal submittal. Proposals, which do not contain the requisite licensure, may be deemed non-responsive. However, this does not negate any applicable Nevada Revised Statute (NRS) requirements.

VIII. PROPOSAL EVALUATION AND AWARD PROCESS

1. Proposals shall be consistently evaluated and scored in accordance with NRS §333.335(3) based upon the following criteria:
 - Demonstrated competence;
 - Experience in performance of comparable engagements;
 - Project Approach;
 - Performance
 - Compensation

Proposals shall be kept confidential until a contract is awarded.

2. The evaluation committee may also contact the references provided in response to the Section identified as **Targeted Investment Program Experience**; contact any vendor to clarify any response; contact any current users of a vendor's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The evaluation committee shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the State of Nevada (NRS § 333.335(5)).
3. Each vendor must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or investigations pending which involves the vendor or in which the vendor has been judged guilty or liable. Failure to comply with the terms of this provision may disqualify any proposal. The State reserves the right to reject any proposal based upon the vendor's prior history with the State or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures (See generally, NRS §333.335).
4. Clarification discussions may, at the State's sole option, be conducted with vendors who submit proposals determined to be acceptable and competitive (NAC §333.165). Vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals. Such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting

discussions, there shall be no disclosure of any information derived from proposals submitted by competing vendors.

5. A Notification of Intent to Award shall be issued in accordance with NAC §333.170. Any award is contingent upon the successful negotiation of final contract terms and upon approval of the Board of Examiners, when required. Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the State upon written notice to all vendors may negotiate a contract with the next highest scoring vendor or withdraw the RFP.

IX. TERMS, CONDITIONS AND EXCEPTIONS

1. Performance of vendors will be rated semi-annually following contract award and then annually for the term of the contract by the using State agency in six categories: customer service; timeliness; quality; technology; flexibility; and pricing. Vendors will be notified in writing of their rating.
2. In accordance with NRS § 333.336, if a vendor submitting a proposal in response to this solicitation is a resident of another state, and with respect to contracts awarded by that state, applies to vendors who are residents of that state a preference, which is not afforded to vendors or contractors who are residents of the State of Nevada, the State Treasurer shall, insofar as is practicable, increase the out-of-state vendor's proposal by an amount that is substantially equivalent to the preference that the other state of which the vendor is a resident denies to vendors or contractors who are residents of the State of Nevada.
3. This procurement is being conducted in accordance with NRS § 333 and NAC § 333.
4. The State reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the State to do so.
5. The State reserves the right to waive informalities and minor irregularities in proposals received.
6. The State reserves the right to reject any or all proposals received prior to contract award (NRS §333.350).
7. The State shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the State of Nevada after all factors have been evaluated (NRS §333.335).
8. Any irregularities or lack of clarity in the RFP should be brought to the STO's designee's attention as soon as possible so that corrective addenda may be furnished to prospective vendors.

9. Proposals must include any and all proposed terms and conditions, including, without limitation, written warranties, maintenance/service agreements, license agreements, lease purchase agreements and the vendor's standard contract language. The omission of these documents renders a proposal non-responsive.
10. Alterations, modifications or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
11. Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.
12. Proposals from employees of the State of Nevada will be considered in as much as they do not conflict with the State Administrative Manual, NRS §281 and NRS §284.
13. Proposals may be withdrawn by written or facsimile notice received prior to the proposal opening time. Withdrawals received after the proposal opening time will not be considered except as authorized by NRS §333.350(3).
14. The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other contractor, vendor or prospective vendor. Collaboration among competing vendors about potential proposals submitted pursuant to this RFP is prohibited and may disqualify the vendor.
15. No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.
16. Prices offered by vendors in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The Awarded Vendor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP. No other costs, rates or fees shall be payable to the Awarded Vendor for implementation of their proposal.
17. The State is not liable for any costs incurred by vendors prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the vendor in responding to the RFP, are entirely the responsibility of the vendor, and shall not be reimbursed in any manner by the State.
18. All proposals submitted become the property of the State and will be returned only at the State's option and at the vendor's request and expense. The master copy of each proposal shall be retained for official files and will become public record after the award of a contract. Only specific parts of the proposal may be labeled a "trade secret" provided that the awarded vendor agrees to defend and indemnify the State for honoring such a designation (NRS §333.333). The failure to so label any information that is released by

the State shall constitute a complete waiver of any and all claims for damages caused by any release of the information.

19. A proposal submitted in response to this RFP must identify any subcontractors, and outline the contractual relationship between the awarded vendor and each subcontractor. An official of each proposed subcontractor must sign, and include as part of the proposal submitted in response to this RFP, a statement to the effect that the subcontractor has read and will agree to abide by the Awarded Vendor's obligations.
20. The awarded vendor will be the sole point of contract responsibility. The State will look solely to the awarded vendor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded vendor shall not be relieved for the non-performance of any or all subcontractors.
21. The awarded vendor must maintain, for the duration of its contract, insurance coverages as set forth in the Insurance Schedule of the contract form appended to this RFP. Work on the contract shall not begin until after the awarded vendor has submitted acceptable evidence of the required insurance coverages. Failure to maintain any required insurance coverage or acceptable alternative method of insurance will be deemed a breach of contract.

Notwithstanding any other requirement of this section, the State reserves the right to consider reasonable alternative methods of insuring the contract in lieu of the insurance policies required by the above-stated Insurance Schedule. It will be the awarded vendor's responsibility to recommend to the State alternative methods of insuring the contract. Any alternatives proposed by a vendor should be accompanied by a detailed explanation regarding the vendor's inability to obtain insurance coverage as described above. The State shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

22. Each vendor must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. By submitting a proposal in response to this RFP, vendors affirm that they have not given, nor intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest will automatically result in the disqualification of a vendor's proposal. An award will not be made where a conflict of interest exists. The State will determine whether a conflict of interest exists and whether it may reflect negatively on the State's selection of a vendor. The State reserves the right to disqualify any vendor on the grounds of actual or apparent conflict of interest.
23. The State will not be liable for Federal, State, or Local excise taxes.

24. Execution of Attachment B of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Attachment C contract form and all terms and conditions therein, except such terms and conditions that the vendor expressly excludes. Exceptions will be taken into consideration as part of the evaluation process.
25. The State reserves the right to negotiate final contract terms with any vendor selected (NAC §333.170). The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded vendor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the State during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded vendor's proposal, and the awarded vendor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.
26. Vendor understands and acknowledges that the representations above are material and important, and will be relied on by the State in evaluation of the proposal. Any vendor misrepresentation shall be treated as fraudulent concealment from the State of the true facts relating to the proposal.
27. No announcement concerning the award of a contract as a result of this RFP can be made without the prior written approval of the State.
28. The Nevada Attorney General will not render any type of legal opinion regarding this transaction.
29. Any unsuccessful vendor may file an appeal in strict compliance with NRS § 333.370 and NAC § 333.
30. Local governments (as defined in NRS §332.015) are intended third party beneficiaries of any contract resulting from this RFP and any local government may join or use any contract resulting from this RFP subject to all terms and conditions thereof pursuant to NRS §332.195. The State is not liable for the obligations of any local government which joins or uses any contract resulting from this RFP.
31. Any person who requests or receives a Federal contract, grant, loan or cooperative agreement shall file with the using agency a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a) of 31 U.S.C. §1352.

Attachment A
CONFIDENTIALITY OF PROPOSALS AND
CERTIFICATION OF INDEMNIFICATION

Submitted proposals, which are marked “confidential” in their entirety, or those in which a significant portion of the submitted proposal is marked “confidential” **will not** be accepted by the State of Nevada. Pursuant to NRS §333.333, only specific parts of the proposal may be labeled a “trade secret” as defined in NRS §600A.030(5). All proposals are confidential until the contract is awarded; at which time, both successful and unsuccessful vendors’ technical and cost proposals become public information. In accordance with the Submittal Instructions of this document, vendors are requested to submit confidential information in a separate envelope or binder marked “confidential.”

The State will not be responsible for any information contained within the proposal should vendors not comply with the labeling and packing requirements, proposals will be released as submitted. In the event a governing board acts as the final authority, there may be public discussion regarding the submitted proposals that will be in an open meeting format, the proposals will remain confidential.

By signing below, I understand it is my responsibility as the vendor to act in protection of the labeled information and agree to defend and indemnify the State of Nevada for honoring such designation. I duly realize failure to so act will constitute a complete waiver and all submitted information will become public information; additionally, failure to label any information that is released by the State shall constitute a complete waiver of any and all claims for damages caused by the release of the information.

This proposal contains either Confidential Information, Trade Secrets and/or Proprietary information as defined in Section 2 “ACRONYMS/DEFINITIONS.”

YES _____

NO _____

SIGNATURE _____

Primary Vendor

Date

PRINT NAME _____

Primary Vendor

This document must be submitted in the “State Documents” section/tab of vendors’ technical proposal.

Attachment B
CERTIFICATION OF COMPLIANCE WITH
TERMS AND CONDITIONS OF RFP
PRIMARY VENDOR

I have read, understand and agree to comply with the terms and conditions specified in this Request for Proposal.

Checking “YES” indicates acceptance of all terms and conditions, while checking “NO” denotes non-acceptance and vendor’s exceptions should be detailed below. In order for any exceptions to be considered they **MUST** be documented.

YES _____ I agree. NO _____ Exceptions below:

SIGNATURE _____

Primary Vendor

Date

PRINT NAME _____

Primary Vendor

EXCEPTION SUMMARY FORM

RFP SECTION NUMBER	RFP PAGE NUMBER	EXCEPTION (PROVIDE A DETAILED EXPLANATION)

Attach additional sheets if necessary. Please use this format.

This document must be submitted in the “State Documents” section/tab of vendors’ technical proposal

Attachment C

CONTRACT FORM

The following State Contract Form is provided as a courtesy to vendors interested in responding to this RFP. Please review the terms and conditions in this form, as this is the standard contract used by the State for all services of independent contractors. It is not necessary for vendors to complete the Contract Form with their proposal responses.

All vendors are required to submit a Certificate of Insurance in the “State Documents” tab/section of their technical proposal identifying the coverages and minimum limits currently in effect.

Please pay particular attention to the insurance requirements, as specified in paragraph 16 and Attachment BB of the attached contract.

As with all other requirements of this RFP, vendors may take exception to any of the terms in the Contract Form, including the required insurance limits. Exceptions will be considered during the evaluation process.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract Between the State of Nevada
Acting By and Through Its

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)
and

(NAME, CONTACT PERSON, ADDRESS, PHONE, FACSIMILE NUMBER OF INDEPENDENT CONTRACTOR)

WHEREAS, NRS 333.700 authorizes elective officers, heads of departments, boards, commissions or institutions to engage, subject to the approval of the Board of Examiners, services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. "Independent Contractor" means a person or entity that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year. "Current State Employee" means a person who is an employee of an agency of the State. "Former State Employee" means a person who was an employee of any agency of the State at any time within the preceding 24 months.

3. CONTRACT TERM. This Contract shall be effective from _____ subject to Board of Examiners' approval (anticipated to be _____) to _____, unless sooner terminated by either party as specified in paragraph ten (10).

4. NOTICE. Unless otherwise specified, termination shall not be effective until ____ calendar days after a party has served written notice of termination for default, or notice of termination without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.

5. INCORPORATED DOCUMENTS. The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA: STATE SOLICITATION OR RFP #_____ and AMENDMENT(S) #____;
ATTACHMENT BB: INSURANCE SCHEDULE: And

ATTACHMENT CC: CONTRACTOR'S RESPONSE

A Contractor's Attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph five (5) at a cost of \$ _____ per _____ (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: _____, not to exceed \$ _____. The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. BILLING SUBMISSION: TIMELINESS. The parties agree that timeliness of billing is of the essence to the contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the State no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the State of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Contractor.

9. INSPECTION & AUDIT.

a. Books and Records. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. CONTRACT TERMINATION.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause.

b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

- i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
- ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
- iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
- iv. If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
- v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- vi. If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph four (4), and the subsequent failure of the defaulting party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
- iv. Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with paragraph twenty-one (21).

11. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include, without limitation, one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that the Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

12. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed one hundred and fifty percent (150%) of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

13. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse,

and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

14. INDEMNIFICATION. To the fullest extent permitted by law Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.

15. INDEPENDENT CONTRACTOR. Contractor is associated with the State only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the State whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the State; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State. The State and Contractor shall evaluate the nature of services and the term of the Contract negotiated in order to determine "independent contractor" status, and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

		<u>Contractor's Initials</u>	
		YES	NO
1.	Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?	_____	_____
2.	Will the Contracting Agency be providing training to the independent contractor?	_____	_____
3.	Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?	_____	_____
4.	Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?	_____	_____
5.	Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?	_____	_____
6.	Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?	_____	_____
7.	Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?	_____	_____

16. INSURANCE SCHEDULE. Unless expressly waived in writing by the State, Contractor, as an independent contractor and not an employee of the State, must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in Attachment BB, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and
- 2) The State has approved the insurance policies provided by the Contractor.

Prior approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in Attachment BB, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until:

1. Final acceptance by the State of the completion of this Contract; or
 2. Such time as the insurance is no longer required by the State under the terms of this Contract;
- Whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of, and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

General Requirements:

- a. **Additional Insured:** By endorsement to Contractor's general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- b. **Waiver of Subrogation:** Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307, for losses arising from work/materials/equipment performed or provided by or on behalf of the Contractor.
- c. **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. **Deductibles and Self-Insured Retentions:** Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- e. **Policy Cancellation:** Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown on page one (1) of this contract:
- f. **Approved Insurer:** Each insurance policy shall be:
 - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - 2) Currently rated by A.M. Best as "A-VII" or better.

Evidence of Insurance:

Prior to the start of any Work, Contractor must provide the following documents to the contracting State agency:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized insurer to bind coverage on its behalf. The state project/contract number; description and contract effective dates shall be noted on the certificate, and

upon renewal of the policies listed Contractor shall furnish the State with replacement certificates as described within Insurance Coverage, section noted above.

Mail all required insurance documents to the State Contracting Agency identified on page one of the contract.

- 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85) , signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per General Requirements, subsection a above.
- 3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the underlying Schedule from the Umbrella or Excess insurance policy may be required.

Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

17. COMPLIANCE WITH LEGAL OBLIGATIONS. Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

18. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

19. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

20. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the State.

21. STATE OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the State and all such materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the State. Notwithstanding the foregoing, the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark or copyright protection.

22. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract

24. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Contract:

a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. LOBBYING. The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

a. Any federal, state, county or local agency, legislature, commission, counsel or board;

b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

26. WARRANTIES.

a. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State.

27. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

28. NOTIFICATION OF UTILIZATION OF CURRENT OR FORMER STATE EMPLOYEES. Contractor has disclosed to the State all persons that the Contractor will utilize to perform services under this Contract who are Current State Employees or Former State Employees. Contractor will not utilize any of its employees who are Current State Employees or Former State Employees to perform services under this contract without first notifying the Contracting Agency of the identity of such persons and the services that each such person will perform, and receiving from the Contracting Agency approval for the use of such persons.

29. ASSIGNMENT OF ANTITRUST CLAIMS. Contractor irrevocably assigns to the State any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state of Nevada or federal antitrust laws in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim for relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's obligations under this Contract to irrevocably assign to the State, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of state of Nevada or federal antitrust laws in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Contract, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action.

30. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict of laws that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.

31. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General and the State Board of Examiners.

**ATTACHMENT BB
INSURANCE SCHEDULE**

INSURANCE & INDEMNIFICATION

INDEMNIFICATION CLAUSE:

Contractor shall indemnify, hold harmless and, not excluding the State's right to participate, defend the State, its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs, (hereinafter referred to collectively as "claims") for bodily injury or personal injury including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State.

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

4. **Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$10,000,000
Annual Aggregate	\$10,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

- 1. On insurance policies where the State of Nevada, Office of the State Treasurer is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
- 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to Christina Hadwick, Management Analyst, Office of the State Treasurer, 101 North Carson Street, Suite 4 Carson City, NV 89701-4786.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Christina Hadwick, Management Analyst, Office of the State Treasurer, 101 North Carson Street, Suite 4, Carson City, NV 89701-4786. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Management Division or the Attorney General's Office, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

Attachment D

REFERENCE QUESTIONNAIRE

The State of Nevada, as a part of the RFP process, requires proposing vendors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document the experience relevant to the scope of work and provide assistance in the evaluation process.

The proposing vendor is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to the State of Nevada, Office of the Treasurer, by the RFP submission deadline for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. The business reference may be contacted for validation of the response.

**NCIC RFP # 001 REFERENCE QUESTIONNAIRE
FOR:**

(Name of company requesting reference)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of Nevada, Office of the Treasurer, via facsimile at 775-684-5781 or e-mail at treas-rfp@nevadatreasurer.gov, no later than March 9, 2012 @ 3:00p.m. Pacific Time, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of Nevada, Office of the Treasurer by telephone at 775-684-5631 or by e-mail at treas-rfp@nevadatreasurer.gov. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

CONFIDENTIAL INFORMATION WHEN COMPLETED

Company providing reference	
Contact name and title/position	
Contact telephone number	
Contact e-mail address	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?
COMMENTS:

2. How would you rate this firm's knowledge and expertise?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?
____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
COMMENTS:

5. How would you rate the dynamics/interaction between the vendor and your staff?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who were the vendor's principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

Name: _____ Rating:

COMMENTS:

7. How satisfied are you with the products developed by the vendor?
_____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

8. With which aspect(s) of this vendor's services are you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are you least satisfied?

COMMENTS:

10. Would you recommend this vendor's services to your organization again?

COMMENTS:

**Attachment 4
FEE PROPOSAL**

Offeror's Name: _____

Base Management Fee:

(Please list on page 3 all services included in your base management fee.)

Year	Fee
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

Management Fee offsets

Describe any reductions in management fees from others sources of income to the fund of funds.

Tiered Carried Interest

Proposal may be paid on a net-net basis, after the return of invested capital preferred return (if any), and all fees to NCIC, and subject to the agreed upon performance hurdle rates. Describe your proposed incentive compensation plan:

____% if the Net IRR is equal to or greater than 8% but less than or equal to 14%

____% if the Net IRR is greater than 14% but less than or equal to 20%

____% if the Net IRR is greater than 20%

Please list ALL SERVICES included in your base management fee: