

Kate Marshall
State Treasurer



STATE OF NEVADA
OFFICE OF THE STATE TREASURER

BOND AND DISCLOSURE COUNSEL SERVICES SOLICITATION
February 2014

Release Date: February 27, 2014

Deadline for Submission and Opening Date and Time:
March 14, 2014 at 1:00 PM Pacific

For additional information, please contact:
Jean Oliver
jeoliver@nevadatreasurer.gov

Respondents should include this signed covered page in their proposal.

Company Name _____ Contact Person _____

Address _____ City _____ State _____ Zip _____

Telephone (____) _____ Fax (____) _____

E-Mail Address: _____

I have read, understand, and agree to all terms and conditions herein.

Signed

(Date)

Print Name & Title

1. OVERVIEW OF SERVICES

The Office of the State Treasurer (“STO”) is seeking vendors interested in providing bond counsel and/or disclosure counsel services in connection with the issuance of bond/notes or other securities for the State, with the exception of certain revenue bonds issued by the State’s University System and Housing Division, private activity and industrial development bonds administered by the State’s Department of Business and Industry. Vendors must have a minimum of five years of experience serving as counsel for municipal bond issuers, including State-level issuing authorities.

The Treasurer’s Office, upon direction of the Board of Finance, is responsible for the issuance of obligations authorized on behalf of, and in the name of, the State (Constitution of the State of Nevada, Article 9, Section 3; Article 10, Section 2; NRS 226; NRS 348; and NRS 349.150-364), including, but not limited, to the following types of debt:

- Water System Projects (NRS 349.986)
- Historic Preservation and Cultural Resource Projects (NRS 233C.225)
- Safe Drinking Water State Revolving Fund bonds (NRS 445A.200-295)
- Water Pollution Control State Revolving Fund bonds (NRS 445A.060-160)
- Municipal Bond Bank bonds (NRS 350A)
- Colorado River Commission (NRS 538.166)
- Lease-purchase revenue bonds (NRS 353)
- Slot Tax Bonds (NRS 463.358)
- Highway Revenue (Motor Vehicle Fuel Tax) bonds (NRS 408.273)

Generally, the State issues debt on a competitive sale basis, but negotiated or private placement sales may be conducted as circumstances warrant. Each debt issuance is generally between \$5 million and \$300 million, may include multiple series, and is usually one of the following five types of securities: (1) general obligation; (2) general obligation with the pledge of a specific revenue source; (3) revenue; (4) appropriation based certificates of participation secured by the commitment of the State to pay debt service, subject to annual appropriation by the Legislature; or (5) refundings of prior issuances.

For each debt transaction, the STO uses separate law firms to act as bond counsel and disclosure counsel. Based on the quality and number of responses received via this Informal Solicitation, the STO intends to form one pool of three to seven law firms for bond and disclosure counsel services, which the STO will draw upon when forming financing teams for each transaction. In order to maintain continuity of legal services, the STO may appoint one firm to act as the primary bond counsel for the State. Other firms in the pool may be called upon to act as bond counsel on individual transactions in certain situations such as if the primary bond counsel has a conflict of interest or another firm in the pool has greater expertise for a specialized transaction such as a securitization. There also may be occasions where the State chooses to use co-bond counsels, such as when an issuance involves “dual” clients such as the State and Colorado River Commission, as an

example. Disclosure counsel services may be rotated depending on the nature of the work and transaction. The contract period executed with each firm selected for the State's pool is four years.

Traditionally, bond counsel has advised the State in structuring the issuance and sale of bonds, notes, certificates of participation, and other securities, as well as providing necessary legal assistance related to various financings, including participation in negotiating terms and drafting various documents, legislation, regulations, and procedures. Bond counsel renders offering and tax opinions regarding the issuance of securities and will verify compliance with applicable federal, state, and municipal laws and regulations.

Both bond and disclosure counsel work closely with the Treasurer's Office, the Controller's Office, the Attorney General's Office, the Department of Administration, and other State agencies; the State's financial advisors; registrars/paying agents; selected underwriting teams; underwriter's counsel; bond insurers; and municipalities. Occasionally, Bond Counsel will advise the Governor and/or his staff, and the State Legislature on debt-related issues, as well as assist in drafting debt-related legislation.

This Informal Solicitation, along with the proposed State Debt Management Policy (to be considered by the Board of Finance on March 11, 2014), which is attached as Attachment G, outlines services expected of selected bond and disclosure counsel. By responding to this Informal Solicitation, vendors acknowledge receipt of Attachments F and G and, accordingly, accept responsibility for complying with these written policies and procedures, and agree to comply with any future revisions when notified by the State Treasurer's Office.

Selected vendors will be responsible for notifying the Treasurer's Office in writing of material changes in ownership, organization, personnel, litigation or conflicts, or any other material changes or developments, as soon as possible but in all cases no later than within thirty days of their occurrence.

Vendors shall utilize an electronic copy of the Informal Solicitation in order to prepare their proposals and must place their written response in an easily distinguishable font immediately following the applicable section/question. Electronic copies are available in Word format on the Nevada State Treasurer's Office's website: <https://nevadatreasurer.gov>.

2. MINIMUM QUALIFICATIONS

In order to be considered as bond and/or disclosure counsel for the State, prospective vendors must demonstrate their ability to meet each of the following criteria throughout the term of any awarded contract:

- 2.1 Through answers to the items listed in Section 5, each bond and/or disclosure counsel must demonstrate experience in advising governmental issuers in the aspects involved with the issuance of taxable and tax-exempt securities.
- 2.2 Vendors seeking selection shall have provided bond and/or disclosure counsel services for at least three state (or large local government) securities issuances within the last year.
- 2.3 Vendors must have at minimum of five years of experience serving as counsel for municipal bond issuers, including state-level issuing authorities.
- 2.4 The vendor and each of the key personnel shall be duly qualified and licensed to provide bond and/or disclosure counsel services in Nevada.
- 2.5 The vendor, including, without limitation, any member of the vendor's team, shall not be involved in litigation against the State nor have other engagements which, as determined by the Treasurer in her sole discretion, would be in conflict with the interests of the State.

Please indicate acceptance of Items 2.1 through 2.5 by signing below.

Signature and Title

3. SCOPE OF SERVICES

All services provided by the selected bond and/or disclosure counsel are to be performed only upon the specific direction of the Treasurer or her assignee.

For any specified securities issuance the firm shall:

- 3.1 Render certain opinions regarding:
 - 3.1.1 Validity and binding effect of securities
 - 3.1.2 Source of payment and security for the issuance
 - 3.1.3 Excludability of interest on the securities from gross income for federal tax purposes
 - 3.1.4 A “10b-5 Opinion” with respect to the Preliminary and Final Official Statements, in cases where a separate disclosure counsel is not retained by the State
 - 3.1.5 Provide other legal opinions as required
- 3.2 Prepare and review documents necessary or appropriate to the authorization, issuance, sale, and delivery of the securities including the coordination of the authorization and execution of these documents.
- 3.3 Assist the State in seeking from other governmental authorities any approvals, permissions, and exemptions necessary or appropriate in connection with the authorization, issuance, sale and delivery of the securities.
- 3.4 Review legal issues relating to:
 - 3.4.1 Structure of a securities issuance
 - 3.4.2 Actions necessary to ensure the securities’ interest will continue to be tax-exempt (if applicable)
 - 3.4.3 Requirements for “Continuing Disclosure”
 - 3.4.4 Debt Management Policies and Procedures
- 3.5 Advise, prepare and/or review those sections for the offering document to be disseminated in connection with the sale of the securities that relate to the securities, particularly those sections relating to the legality of the securities, financing structure, security, tax matters and disclosure as well as but not limited to financing documents, bond counsel and disclosure counsel opinions, and tax certificates.
- 3.6 Assist the State in presenting information to bond rating organizations, credit enhancement providers, underwriters, financial advisors, and investors relating to legal and/or continuing disclosure issues affecting the issuance of securities.
- 3.7 Advise, review and/or prepare the Notice of Sale or Bond/Certificate Purchase Agreement for the securities or draft the Continuing Disclosure undertaking of the issuer.

- 3.8 Advise, review and/or prepare all contracts necessary in regard to lease-purchase, including but not limited to: (a) Certificates of Participation (COPs) contracts (i.e. Installment Purchase Contract, Management Contracts, Indentures of Trust); and, if any (b) liquidity facility agreements and investment and trust agreements, relating to legal issues affecting the issuance of COPs.
- 3.9 Draft and/or analyze legislation and be available to appear before legislative committees on issues related to the sale of obligations by the State or the financing authorities.
- 3.10 Prepare the official transcripts (recordings of the proceedings of the financing), including all documentation relating to the authorization, offering, sale, and delivery of the issue within thirty days of the close in both hard copy and CD formats.
- 3.11 Participate in meetings, as requested, relating to the issuance of securities or offer continuing legal advice as needed. Provide sophisticated legal advice on federal tax matters, including private activity, arbitrage, reimbursement, investment and expenditure of proceeds, and the investment and application of monies used to pay debt service on the obligations.
- 3.12 Keep the Treasurer's Office informed of rulings and findings by Federal and State regulatory agencies, including but not limited to, the Internal Revenue Service, the U.S. Securities and Exchange Commission, the Municipal Securities Rulemaking Board, and State Legislature, which impact the State's financing process.
- 3.13 Work closely with the Treasurer and staff, financial advisors, rating agencies, registrars/paying agents, selected underwriting teams, underwriter's counsel, insurers, various financial institutions, State agencies as appropriate (i.e. Governor's Office, Attorney General's Office, Controller's Office, Department of Administration and Budget Office), various boards, committees, and other persons or officials as deemed necessary by the Treasurer relating to debt or legislation of the State.

Specifically, disclosure counsel shall:

- 3.14 Prepare disclosure on the State of Nevada, for the Preliminary and Final Official Statements for use in all State offering documents to comply with federal disclosure regulations including the delivery of such statement in an acceptable format dictated by the MSRB.
- 3.15 Obtain information to prepare the Preliminary and Final Official Statements from bond counsels, financial advisors, underwriters, underwriters' counsel, State agencies, municipalities and other professionals as appropriate.

- 3.16 Provide the “10b-5 Opinion” with respect to the Preliminary and Final Official Statements.
- 3.17 Prepare on the State Treasurer’s behalf, all documents and materials necessary to comply with all applicable “Continuing Disclosure” requirements for the transaction.
- 3.18 Review as necessary, applicable law and pertinent documents.
- 3.19 Keep the Treasurer’s Office informed of rulings and findings by Federal and State regulatory agencies, including but not limited to, the Internal Revenue Service, the U.S. Securities and Exchange Commission, the Municipal Securities Rulemaking Board, and the State Legislature, which impact the State’s financing process regarding post issuance compliance and ongoing disclosure.
- 3.20 Participate, as requested, in meetings and discussions with various parties, including investors.
- 3.21 Review rating agency presentations and investor presentations for consistency with Official Statement and for compliance reasons.
- 3.22 When requested by the State, provide training on disclosure practices and law.

4. VENDOR BACKGROUND AND REFERENCES

Respondents should provide information on their firm by answering each of the following areas.

4.0 SERVICES TO BE CONSIDERED FOR THIS PROPOSAL

Select the service for which you wish to be considered:

- Bond Counsel Only
- Disclosure Counsel Only
- Bond Counsel and Disclosure Counsel

4.1 PRIMARY VENDOR INFORMATION

Vendors must provide a company profile. Information provided shall include:

4.1.1 Vendor ownership. If incorporated, the state in which the vendor is incorporated and the date of incorporation.

4.1.1.1 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

and the awarded vendor, unless specifically exempted by NRS 80.015.

4.1.1.2 The selected vendor, prior to doing business in the State, must be appropriately licensed by the Department of Taxation, in accordance with NRS 360.780.

4.1.2 Disclosure of any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or investigation pending which involves the vendor or in which the vendor has been judged guilty or liable as well as any pending investigation of the vendor or enforcement or disciplinary actions taken within the past three years by the SEC or other regulatory bodies.

4.1.3 Location(s) of the vendor offices and location of the office servicing any Nevada account(s).

4.1.4 Number of employees both locally and nationally.

4.1.5 Location(s) from which employees will be assigned

4.1.6 Name, address, e-mail address, and telephone number of the vendor's point of contact for a contract resulting from this Informal Solicitation.

4.1.7 Vendor background/history and why vendor is qualified to provide the services described in this Informal Solicitation.

4.1.8 Length of time vendor has been providing services described in this Informal Solicitation to the **public and/or private sector** and also **specifically to the State of Nevada and its municipalities, if applicable.** Please provide a brief description.

4.1.9 Has the vendor ever been engaged under contract by any State agency?

Yes No

If "Yes," specify when, for what duties, and for which agency.

4.1.10 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?

4.1.11 Indicate whether your firm has attorneys on staff which are licensed as practicing attorneys by the Nevada bar association.

- 4.1.12 Provide resumes for each of the vendor's team which includes the lead attorney who will be assigned to this engagement and no more than two other attorneys who will act as backup to the lead person.
- 4.1.13 The State Treasurer encourages all vendors that are retained or utilized by her office to adopt corporate governance policies that provide confidence in the structure and management of the vendor. Please provide a copy of your adopted corporate governance policies/procedures.

4.2 REFERENCES

Vendors should provide a minimum of three (3) references from similar services performed for state and/or large local government clients within the last three years. **Vendors are required to submit Attachment D, Reference Questionnaire, to the business references they list. The business references must submit the Reference Form directly to the Treasurer's designee, Jean Oliver.** It is the vendor's responsibility to ensure that the completed forms are received by the Nevada State Treasurer's Office 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. The Nevada State Treasurer's Office may contact any or all business references for validation of information submitted. Provide the following information for each client reference responding via **Attachment D**:

- 4.2.1 Client name;
- 4.2.2 Securities issuance description;
- 4.2.3 Series title and date;
- 4.2.4 Economic/market environment during issuance;
- 4.2.5 Staff assigned to reference engagement that will be designated for work per this Informal Solicitation;
- 4.2.6 Debt manager name, telephone number, fax number, and e-mail address.

4.3 SUBCONTRACTOR INFORMATION

No subcontractors are allowed for this engagement.

4.4 CERTIFICATION

By inclusion and execution of the statement provided in Attachment B of this Informal Solicitation, each proposal certifies that:

- 4.4.1 The vendor and each of the key personnel shall be duly qualified and licensed to provide bond and/or disclosure counsel services in Nevada.
- 4.4.2 The selection of the vendor will not result in any current or potential, real or perceived conflict of interest. Alternately, should any potential or existing conflict be known by the vendor, the proposal shall specify the party with whom the conflict exists or might arise, the nature of the conflict and whether the vendor would step aside or resign from that engagement or representation creating the conflict.
- 4.4.3 The proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same services, and is in all respects fair and without collusion or fraud.
- 4.4.4 The vendor (and the agents, officers, principals and professional employees thereof) has not and will not participate in any prohibited business solicitation communication.*

*"Prohibited business solicitation communication" means a written or verbal communication which occurs during a selection period between a Nevada State Treasurer's Office's employee and any person or entity submitting a proposal for bond and/or disclosure counsel services....or between a State employee and a person who is not a State employee regarding the merits of any bond and or disclosure counsel services....or whether the evaluating committee should elect or retain the bond and or disclosure counsel services...."with certain exceptions". The "selection period" for this Informal Solicitation begins February 17, 2010 and will continue until the Treasurer's Office selects its vendors.

- 4.4.5 For the term of this agreement, the vendor and its affiliates (i) shall not be a prohibited person; and (ii) shall be in full compliance with all applicable orders, rules, regulations and recommendations promulgated under or in connection with Anti-Money laundering laws and with the Patriot Act to the same extent required by covered financial institutions which are defined in 31 CFR 103.193(a)(3). If not, please explain.
- 4.4.6 The vendor agrees, 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:

- 4.4.6.1 Any federal, state, county or local agency, legislature, commission, counsel or board;
- 4.4.6.2 Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or
- 4.4.6.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

4.4.7 The person authorized to sign this proposal for the vendor is in compliance with all the requirements of this Informal Solicitation and certifies all the information provided in this proposal is true and correct.

5. SUBSTANTIVE SCORED QUESTIONS

Respondents should provide information on their firm by answering each of the following questions in the order presented. In their proposal, Respondents should repeat each question below, with the number of the question also indicated, and then provide their response below the question.

- 5.1 Provide an overview of your firm’s practice and experience in public finance and related areas of law. Contain your answer to this question to no more than one page.
- 5.2 Using the table format below, indicate the total par and number of long-term municipal bond transactions, including private placement transactions, for the calendar years 2009 through and inclusive of 2013 of which your firm acted as bond counsel, both nationally and in Nevada.

<i>Bond Counsel Experience</i>				
	U.S.		Nevada	
Year	# of Issues	Par	# of Issues	Par
2009				
2010				
2011				
2012				
2013				
TOTAL				

- 5.3 Using the table format below, indicate the total par and number of long-term municipal bond transactions, including private placement transactions, for the calendar years 2009 through and inclusive of 2013 of which your firm acted as disclosure counsel, both nationally and in Nevada.

<i>Disclosure Counsel Experience</i>				
	U.S.		Nevada	
Year	# of Issues	Par	# of Issues	Par
2009				
2010				
2011				
2012				
2013				
TOTAL				

- 5.4 Using the table format below, indicate the total par and number of long-term municipal bond transaction, including private placement transactions, for the calendar years 2009 through and inclusive of 2013 of which each of the attorneys named in Question #4.1.11 acted as lead bond counsel in Nevada.

<i>Bond Counsel Experience in Nevada</i>						
	Lead Attorney		Backup Attorney #1		Backup Attorney #2	
Year	# of Issues	Par	# of Issues	Par	# of Issues	Par
2009						
2010						
2011						
2012						
2013						
TOTAL						

- 5.5 For 2012 and 2013, indicate the specific transactions in Nevada that each attorney named in Question #4.1.11 acted as lead bond counsel in Nevada. *[NOTE: Failure to provide information on specific issuers, which is public information, will likely result in a lower score for this area.]*

- 5.6 Using the table format below, indicate the total par and number of long-term municipal bond transaction, including private placement transactions, for the calendar years 2009 through and inclusive of 2013 of which each of the attorneys named in Question #4.1.11 acted as lead disclosure counsel in Nevada.

<i>Disclosure Counsel Experience in Nevada</i>						
	Lead Attorney		Backup Attorney #1		Backup Attorney #2	
Year	# of Issues	Par	# of Issues	Par	# of Issues	Par
2009						
2010						
2011						
2012						
2013						
TOTAL						

- 5.7 For 2012 and 2013, indicate the specific transactions in Nevada that each attorney named in Question #4.1.11 acted as lead disclosure counsel in Nevada. *[NOTE: Failure to provide information on specific issuers, which is public information, will likely result in a lower score for this area.]*
- 5.8 During 2012 and 2013, indicate the total number of non-Nevada transactions that each of the attorneys named in Question #4.1.11 acted as lead disclosure counsel for.
- 5.9 For the lead attorney designated in Question #4.1.11, name the agencies in which you provided post-compliance training to from 2009 through 2013. *[NOTE: Failure to provide information on specific issuers, which is public information, will likely result in a lower score for this area.]*
- 5.10 Describe your knowledge of the State of Nevada’s constitutional and statutory provisions relating to the authorization, issuance, and management of the State’s securities. What aspects of the State’s Securities Law and case law related to debt, as well as the State’s bond programs, represent unique situations or is most relevant when performing bond or disclosure work for the State?
- 5.11 In your view, explain what you see as the most important challenges and opportunities facing the municipal markets and, specifically, the State over the next two years.
- 5.12 Describe any special legal expertise you have in any particular segments of the municipal finance industry. Detail your expertise in certificates of participation, lease-purchase, energy retrofit financings, commercial paper programs, public-private partnerships, tolling, securitizations, lotteries and derivatives.

- 5.13 Briefly describe any innovative legal techniques/structures, legislative proposals, and programs, which have been utilized by your firm. Describe how they might specifically apply to the State. List transactions in which you implemented these techniques in your role as bond and/or disclosure counsel.
- 5.14 List the organizations pertaining to municipal finance of which your firm participates as a member, officer or sponsor and delineate your role in the organization.
- 5.15 Provide information on any litigation or administrative proceeding relating to the professional activities of your firm during the three years prior to this Informal Solicitation, which could have a materially adverse effect on your firm's ability to serve as bond and/or disclosure counsel to the State.
- 5.16 Provide information on any pending litigation, investigation or proceeding in which a court, the Securities and Exchange Commission, the Internal Revenue Service or any other state or federal agency is addressing any questions relating to the professional activities of your firm.
- 5.17 Does your firm have any arrangement with any individual or entity with respect to the sharing of any compensation fees or profit received from or in relation to, acting as bond and/or disclosure counsel for the State or whose compensation is based in whole or in part on compensation for acting as bond and/or disclosure counsel for the State? If so, provide a copy of any contract relating to the arrangement and describe in detail the nature of the arrangement and the method of computing compensation,
- 5.18 Has your firm retained any person for the purpose of seeking to be selected as bond and/or disclosure counsel pursuant to the Informal Solicitation? If so, identify the individual or firm, provide specific information relating to compensation aid or to be paid in connections with such services, and provide a copy of any written contract relating to such arrangement.
- 5.19 Provide any other additional information, you believe would be of value to the State Treasurer in the selection process.

6. COST

- 6.1 Each vendor submitting a proposal must submit the Bond and/or Disclosure Counsel Cost Worksheet (Attachment E).
- 6.2 Acknowledgement vendor will comply with the State Administration Manual (SAM) Section 0325 (Attachment F).
- 6.4 Acknowledgement of compensation for bond and/or disclosure counsel services shall be contingent upon the successful closing of the State securities issuance.
- 6.5 Acknowledgement of compensation stated in the proposal is an irrevocable offer for the term of the contract.

Signed: _____ Date _____

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. Vendors are 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 Confidential Information, Trade Secrets and/or Proprietary information.

YES _____

NO _____

SIGNATURE _____
Primary Vendor

_____ Date

PRINT NAME _____
Primary Vendor

Attachment B
CERTIFICATION OF COMPLIANCE WITH
TERMS AND CONDITIONS OF INFORMAL SOLICITATION

I have read, understand and agree to comply with the terms and conditions specified in this Informal Solicitation.

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

Informal Solicitation SECTION NUMBER	Informal Solicitation PAGE NUMBER	EXCEPTION (PROVIDE A DETAILED EXPLANATION)

Attach additional sheets if necessary. Please use this format.

Attachment C

CONTRACT FORM

The following State Contract Form is provided as a courtesy to vendors interested in responding to this Informal Solicitation. 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.

All vendors are required to submit a Certificate of Insurance with their technical proposal identifying the coverages and minimum limits currently in effect.

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

As with all other requirements of this Informal Solicitation, 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. It is not necessary for vendors to complete the Contract Form with their proposal responses.

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, parttime, 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 by the 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.

**ATTACHMENT BB
INSURANCE SCHEDULE**

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 "Indemnatee") 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 Indemnatee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnatee, 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	\$1,000,000
Annual Aggregate	\$2,000,000

- 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, Department (Division) of _____ 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 **(State agency Representative's Name & Address)**.

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 **(State Agency Representative's Name and Address)**. 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 Informal Solicitation 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 Informal Solicitation 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.

**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 775-684-5776 or by e-mail at jeoliver@nevadatreasurer.gov, no later than **March 14, 2014 @ 1:00 PM 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 775-684-5779 or by e-mail at jeoliver@nevadatreasurer.gov.

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 E

BOND COUNSEL AND DISCLOSURE COUNSEL COST WORKSHEET

Fees for serving as bond and/or disclosure counsel shall be contingent upon the successful issuance of State securities. Fees will include all related costs and expenses, including but not limited to overhead and support staff (except reasonable out-of-pocket expenses directly incurred for relevant office expenses (long distance telephone charges, outside printing, postage and delivery services), charges for preparation of hard copy and CD transcripts, and travel, as approved by the State; reference Attachment F-State Administrative Manual (SAM) section 0325).

Bond Counsel-Issuance Fees:

Total fees per series:	<u>Minimum</u>	<u>Maximum/Not to Exceed</u>
1. Issuance of up to \$10,000,000	\$ _____	\$ _____
2. Issuance of up to \$50,000,000	\$ _____	\$ _____
3. Issuance of up to \$100,000,000	\$ _____	\$ _____
4. Issuance of up to \$200,000,000	\$ _____	\$ _____
5. Issuance of up to \$300,000,000	\$ _____	\$ _____

Bond Counsel Only-Special Project Fees:

All special projects must be directed in writing by the Treasurer's Office. Interest rate swaps and derivative product transactions may be negotiated based on factors such as the size, complexity, and term of the transaction. Other special projects may be negotiated at a blended maximum hourly rate or an agreed upon maximum price between the vendor and the Treasurer's Office.

Maximum blended hourly rate of service for the work of any attorney: \$ _____

Disclosure/Special Counsel Only Fees:

Fee for serving as disclosure or special counsel in connection with the preparation of the State's Preliminary and Final Official Statement (each issuance) (regardless of issuance size or multiple series within an issuance) will be: \$ _____

Fee for advising, reviewing/and or assisting in the preparation of required on going continuing disclosure documents in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time will be: \$ _____

Out-of-Pocket Expenses:

1. Do you agree to a maximum out-of-pocket expense cap per issue? _____

2. If yes, the maximum out-of-pocket expense cap per issuance is: \$_____

Additional fees outside the scope of the cost proposal and/or fees in excess of the maximum/not to exceed amounts listed in this worksheet, which are deemed necessary due to added complexity of the issuance, must be agreed upon in writing by the Treasurer's Office, prior to services being rendered.

Attachment F

STATE ADMINISTRATIVE MANUAL (SAM) SECTION 0325

0325 State Agencies, Boards, and Commissions with Independent Contracts for Outside Legal or Professional Services

Professional services shall include consultation or representative services within the professional's area of educational expertise performed by licensed practitioners as defined in [NRS Chapter 439A](#), attorneys, accountants, engineers, architects, or experts (by education or experience) for judicial or administrative proceedings. It is the policy of the State of Nevada to limit and monitor costs associated with the hiring of professional and expert services, including private attorneys who provide services to the State as independent contractors. Accordingly, all such contracts including those entered into between the State, its agencies, boards and commissions, must include the following contract terms. Further, no such contract may extend beyond a two-year term without review and approval of the Board of Examiners.

1. Notification of Attorney General's Office - Contractor shall notify and consult with the Attorney General's Office promptly regarding all significant developments in regard to any potential legal matters or legal services provided under this contract. Should litigation involving potential liability for the State commence or significantly change during the term of this contract, the Attorney General's Office shall be immediately informed in writing. Contractor shall promptly advise the Risk Management Division of the Department of Administration regarding changes in the status of litigation that may have a fiscal impact on the State.
2. Copies of Work Products Provided to Attorney General's Office - Contractor shall promptly provide the Attorney General's Office, 100 N. Carson Street, Carson City, NV 89701-4717, with copies of final versions of the written work product relevant to any legal matter, including correspondence and executed counterparts of any original pleadings or other matters of importance. Contractor shall also provide to the Attorney General's Office written, quarterly reports summarizing significant developments in regard to the subject matter of the contract and significant services performed under the contract.
3. Work Product the Property of the State - All work products of the Contractor resulting from this contract are the exclusive property of the State. If any work remains in progress at the termination of this agreement, the Contractor shall surrender originals of all documents, objects or other tangible items related to the work to the Attorney General's Office.
4. Conflicts of Interest - Contractor shall not accept other representation or work known to be in direct conflict with the subject matter of the contract without prior written approval of the Attorney General's Office and all attorneys will consult with the Attorney General's Office regarding potential conflicts of interest, at all times acting in accordance with the Nevada Rules of Professional Conduct, [Supreme Court Rules 157 - 159](#).
5. Copies of professional liability insurance will be attached to the contract with proof of policy of professional liability insurance for errors and omissions that is issued by an admitted insurance company authorized to transact insurance in the State of Nevada or by an insurance company authorized to transact surplus lines in the State of Nevada in an amount not less than \$1 million, or as otherwise determined or waived by the Division of Risk Management, Department of Administration, 201 S. Roop Street, Suite #201, Carson City, NV 89701.
6. Billing - In the absence of an agreed upon flat rate or per diem, contractor shall submit monthly billings for work performed, billing only for actual time spent performing a task, and not for unit charge (e.g., no automatic billing of one-third hour for a phone call that may take only five minutes). In every case all billings shall describe all work performed with particularity and by whom it was performed. Billings shall be attached to payment vouchers and processed, as are other claims against the State. Such billings are subject to the following guidelines:

1. Unless otherwise agreed in advance, it is expected that only one professional from contractor's organization will attend meetings, depositions and arguments and other necessary events, although a second person may be needed for trials and major hearings or meetings;
 2. Charges for professional time during travel will not normally be reimbursable unless the time is actually used performing professional services or as otherwise arranged in advance. In addition, the State will not pay:
 3. Fees for the training of personnel incurred as a result of staffing changes or increases during the term of the contract;
 4. Fees for time spent educating junior professionals or associates;
 5. Fees for more than ten hours of work per day for any individual, except during trial or another extraordinary event.
7. Expense Statements - If the contract provides for specific reimbursement for expenses, contractor shall submit monthly statements to the Contracting Agency itemizing all expenses for which reimbursement is claimed. Certain disbursements will not be paid unless agreed to in advance. These include:
1. Secretarial or word processing services (normal, temporary, or overtime);
 2. Photocopy expenses of more than 15 cents per page;
 3. Photocopy costs in excess of \$2,000 for a single job;
 4. Any other staff charges, such as meals, filing, proofreading, regardless of when incurred;
 5. Computer time (other than computer legal research specifically authorized in advance).

The State will not reimburse expenses for the following:

6. Local telephone expenses or office supply costs;
 7. The costs of first-class travel (travel arrangements should be made in advance to take advantage of cost-effective discounts or special rates).
8. Disputes - In the event that a civil action is instituted to collect any payment due under this contract or to obtain performance under this contract, the State as a prevailing party shall recover, as the court deems appropriate, reasonable attorneys' fees and all costs and disbursements incurred in such action.

Attachment G

State Debt Management Policy



Debt Issuance PP -
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