

**EXECUTIVE SEARCH COMMITTEE MEETING**

**Monday, January 13, 2025 – 1:00 PM**

**Virtual Only**

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**AGENDA**

- I. **Call to Order and Approval of Agenda** (*Committee Action*)
- II. **Acceptance of Minutes (January 2, 2025)** (*Committee Action*)
- III. **Executive Recruitment Services Request for Proposal** (*Committee Action*) (20 min) – Ms. Seiler
- IV. **Next Meeting** (*Information*) (5 min)
- V. **Adjournment**

**STATE INVESTMENT BOARD  
EXECUTIVE SEARCH COMMITTEE  
MINUTES OF THE JANUARY 2, 2025, SPECIAL MEETING (VIRTUAL)**

**MEMBERS PRESENT:** Dr. Rob Lech, TFFR Board, Chair  
Thomas Beadle, State Treasurer, Vice Chair  
Pete Jahner, External Representative

**STAFF PRESENT:** Missy Kopp, Exec Assistant  
Sarah Mudder, Communications/Outreach Dir.  
Jan Murtha, Exec. Director  
Chad Roberts, DED/CRO  
Sara Seiler, Supervisor of Internal Audit  
Ryan Skor, CFO/COO

**GUESTS PRESENT:** Hope Wedul, HRMS  
Members of the public

**CALL TO ORDER:**

Dr. Lech called the State Investment Board (SIB) Executive Search Committee meeting to order at 2:00 p.m. on Thursday, January 2, 2025. The meeting was held virtually.

**AGENDA:**

The agenda was considered for the January 2, 2025, meeting.

**IT WAS MOVED BY TREASURER BEADLE AND SECONDED BY MR. JAHNER AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE JANUARY 2, 2025, MEETING AS DISTRIBUTED.**

**AYES: TREASURER BEADLE, MR. JAHNER, AND DR. LECH  
NAYS: NONE  
MOTION CARRIED**

**MINUTES:**

The minutes were considered for the December 17, 2024, meeting.

**IT WAS MOVED BY TREASURER BEADLE AND SECONDED BY MR. JAHNER AND CARRIED BY A VOICE VOTE TO ACCEPT THE DECEMBER 17, 2024, MINUTES AS DISTRIBUTED.**

**AYES: TREASURER BEADLE, MR. JAHNER, AND DR. LECH  
NAYS: NONE  
MOTION CARRIED**

**INTERIM EXECUTIVE DIRECTOR (ED) SELECTION PROCESS:**

**IT WAS MOVED BY TREASURER BEADLE AND SECONDED BY MR. JAHNER AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION PURSUANT TO NDCC 44-04-18.7 AND 44-04-19.2 TO DISCUSS EXEMPT NON-FINALIST APPLICATION INFORMATION.**

**AYES: TREASURER BEADLE, MR. JAHNER, AND DR. LECH  
NAYS: NONE  
MOTION CARRIED**

The executive session started at 2:02 p.m. and ended at 2:19 p.m. The session was attended by committee members, Ms. Murtha, Ms. Kopp, Mr. Skor, Ms. Seiler, and Ms. Wedul.

**IT WAS MOVED BY TREASURER BEADLE AND SECONDED BY MR. JAHNER AND CARRIED BY A ROLL CALL VOTE TO RECOMMEND TO THE SIB JODI SMITH AS THE FINALIST FOR INTERIM ED.**

**AYES: MR. JAHNER, TREASURER BEADLE, AND DR. LECH**

**NAYS: NONE**

**MOTION CARRIED**

The committee discussed a compensation recommendation and timeline for onboarding. The Committee will recommend that Ms. Seiler be the point of contact with the candidate. The tentative start date for Ms. Smith would be January 21, 2025. The Committee will recommend compensation at the current ED level.

**OTHER:**

With no further business to come before the Executive Search Committee, Dr. Lech adjourned the meeting at 2:32 p.m.

Prepared by:

Missy Kopp, Assistant to the Board

## MEMORANDUM

**TO: SIB Executive Search Committee**  
**FROM: Sara Seiler, Supervisor of Internal Audit**  
**DATE: January 9, 2025**  
**RE: Executive Search Recruitment RFP**

As directed by the SIB Executive Search Committee, the following request for proposal (RFP) was developed to obtain executive recruitment services for the Executive Director and Chief Financial Officer/Chief Operating Officer positions. The Committee should review the following sections to ensure the scope, timeline, deliverables, and evaluation criteria are acceptable.

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Scope of Work	13 - 14
Deliverables	15 - 16
Experience and Qualifications	16
Evaluation Criteria	18 - 19

The Committee needs to decide whether it would prefer presentations from the finalist or a review of the finalist's proposals to select.

**COMMITTEE ACTION REQUESTED: Approve RFP desired and method for selection.**

# **STATE OF NORTH DAKOTA**

ND Retirement and Investment Office  
1600 E Century Ave, Ste 3  
P.O. Box 7100  
Bismarck, ND 58507-7100

## **REQUEST FOR PROPOSAL (RFP)**

**RFP Title:** Executive Recruitment Services

**RFP Number:** 110.7-25-003

**Issued:** January 14, 2025

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- Attachment A – Executive Director Job Summary (current)
- Attachment B – Chief Financial and Operating Officer Job Summary (current)
- Attachment C – Incentive Compensation Program Policy
- Attachment D - Cost Proposal
- Attachment E – Technical Proposal Evaluation Worksheet
- Attachment F - Contract

## SECTION ONE – INSTRUCTIONS

### 1.1 PURPOSE OF RFP

The State of North Dakota, acting through its Retirement and Investment Office on behalf of the North Dakota State Investment Board and its executive search committee (the STATE) is soliciting proposals for a qualified independent contractor with expertise in executive recruitment services, specifically, with previous experience with the recruitment of public/private fund investment/retirement professionals responsible for the investment of funds in excess of \$23 billion and the administration of a defined benefit pension plan. The contractor will identify and evaluate qualified candidates to fill the position of Executive Director (ED) and assist with filling the position of Chief Financial and Operating Officer (CFO/COO) with combined management/executive management experience for the North Dakota Retirement & Investment Office (RIO).

### 1.2 PROCUREMENT OFFICER CONTACT INFORMATION

The Procurement Officer is the point of contact for this RFP. Offerors shall direct all communications regarding this RFP to the Procurement Officer. Do not add the Procurement Officer to any marketing distribution lists.

PROCUREMENT OFFICER: Chad Keech

EMAIL: ckeech@nd.gov

PHONE: 701-328-2767

TTY Users call: 7-1-1

A person or firm interested in submitting a proposal should ensure all communications related to the procurement are only with the designated point of contact. This section does not restrict communication with state officials or any member of the legislative assembly unless the state official or member of the legislative assembly is involved directly with the procurement for which the person is interested or has submitted a bid or proposal ([N.D.C.C. § 54-44.4-01.1](#)).

Engaging in unauthorized communication or seeking to obtain information about an open solicitation with any state employee or official other than the responsible Procurement Officer or designee is sufficient grounds for suspension or debarment. ([N.D.A.C. § 4-12-05-04\(7\)](#))

### 1.3 DEFINITIONS

For the purposes of this RFP, the acronyms and defined terms are as follows:

Acronym or Term	Name or Definitions
Contractor	Entity that has an approved contract with the State of North Dakota
CT	Central Time Zone
OMB	Office of Management and Budget
RFP	Request for Proposal
Solicitation Closing	Deadline for receipt of proposals listed in the RFP Schedule
SPO	Office of Management and Budget, State Procurement Office
SPO Online	State Procurement Office Online system
RIO	North Dakota Retirement and Investment Office
SIB	North Dakota State Investment Board
TFFR	North Dakota Teacher's Fund for Retirement

### 1.4 RFP SCHEDULE



EVENT	DATE and TIME
RFP issued	January 14, 2025
Deadline for submission of Questions and Objections	January 21, 2025, by 12:00 PM, CT
Solicitation Amendment with responses to Questions issued approximately (if required)	January 24, 2025
Deadline for receipt of proposals (Solicitation Closing)	February 3, 2025, by 12:00 PM, CT
Proposal evaluation completed by approximately	February 14, 2025
Presentations (if required)	Week of February 24
Notice of intent to award issued approximately	March 3, 2025
Secretary of State Registration, if determined to be required.	Prior to Contract Signing
Contract start approximately	March 5, 2025

### 1.5 ASSISTANCE TO INDIVIDUALS WITH A DISABILITY

Contact the Procurement Officer, as soon as possible, if an individual with a disability needs assistance with the RFP, including any events in the RFP schedule, so reasonable accommodations can be made.

### 1.6 SECRETARY OF STATE REGISTRATION REQUIREMENTS

The North Dakota Secretary of State has registration requirements for individuals and businesses transacting business in North Dakota. If the successful Offeror is determined to have a registration requirement with the North Dakota Secretary of State, they must be registered before the contract award and registration must remain active for the duration of the contract period ([N.D.C.C. § 54-44.4-09.1](#))

- See the OMB [Guidelines to Vendor Registry](#) for more information.

Visit the Secretary of State's [Vendor Registration](#) webpage for information on registration requirements and fees. Visit [FirstStop](#), the Secretary of State's business and licensing software, for online form options.

- Check the [Business Records](#) database to see if a business is registered.
- Contact Secretary of State's office by [email](#) or call 701-328-2900 (choose menu item 2, then option 1).
- If you need to register, fees apply.
- Vendors may need to obtain businesses licenses. See the [list of licenses required of businesses](#) in the State of North Dakota. The link includes information on who to contact, application fees, renewal dates, and the legal reference.

### 1.7 BIDDERS LIST REGISTRATION

Individuals or business entities desiring to be notified of bidding opportunities may apply to be placed on the Bidders List. ([N.D.C.C. § 54-44.4-09](#)) Bidders Lists are used to notify vendors when solicitations are issued on the State Procurement Office Online system (SPO Online). Placement on the Bidders List does not guarantee a vendor will receive notice of every solicitation ([N.D.A.C. § 4-12-05-01](#)). There are no fees to register as a bidder. The online application form requests contact information for the receipt of solicitation notices. The Bidders List application and SPO Online system use commodity codes to identify categories of goods, services, and information technology.

The commodity codes used for this solicitation are: 918-06, 918-07, 918-21, 918-32, 918-49, 918-66, 918-69, 918-75, and 961-30.

Visit the OMB website for instructions and the online Bidders List Application:

## **Bidders List Registration Website**

For assistance with Bidders List Registration, contact State Procurement Help Desk at 701-328-1728 or [infospo@nd.gov](mailto:infospo@nd.gov).

### **1.8 STATE PROCUREMENT WEBSITE (SPO ONLINE)**

This RFP and any related amendments and notices will be posted on the North Dakota OMB website using SPO Online. Offerors are responsible for checking this website to obtain all information and documents related to this RFP: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>

Select "Recent Solicitations". Recent Solicitations are listed by close date.

Notices related to this RFP will be sent to the Bidders List for the needed commodity or service and other known potential Offerors.

Offerors not having completed the Bidders List registration may request to receive notices related to this RFP by contacting the Procurement Officer in writing with the following information: RFP title, business name, contact person, mailing address, telephone number, and email address.

### **1.9 AMENDMENTS TO THE RFP**

If an amendment to this RFP is issued, it will be provided to all Offerors on the Bidders List for the solicitation and to those prospective Offerors who have contacted the Procurement Officer to receive notices related to the RFP. An Offeror shall include in their proposal any required acknowledgements of amendments to the RFP.

### **1.10 DEADLINE FOR QUESTIONS AND OBJECTIONS**

Offerors should carefully review the RFP including all Attachments. Offerors may ask questions to obtain clarification and request additional information, or object to material in the RFP. Questions and objections must be submitted to the Procurement Officer in writing by the deadline identified in the RFP Schedule. If no deadline is specified, questions or objections must be received at least seven days prior to the Solicitation Closing deadline. The Procurement Officer may elect to respond to questions received after the deadline.

Questions and objections should include a reference to the applicable RFP section or subsection. Email is the preferred method of submission with the RFP number and title cited in the email subject line.

Responses to questions will be distributed as a solicitation amendment unless the question can be answered by referring the Offeror to a specific section of the RFP.

### **1.11 PREPROPOSAL CONFERENCE OR SITE INSPECTION**

The STATE will not hold a preproposal conference or site inspection for this RFP.

### **1.12 OFFER HELD FIRM**

Offerors must hold proposals firm for at least 180 days from the deadline for receipt of proposals (Solicitation Closing). The STATE may send a written request to all Offerors to hold their offer firm for a longer period of time.

### **1.13 OFFEROR RESPONSIBLE FOR COSTS**

Offeror is responsible for all costs associated with the preparation, submittal, and evaluation of any proposal including any travel and per diem associated with demonstrations and presentations.

### **1.14 TAXES**

The STATE is not responsible for and will not pay itemized local, state, or federal taxes. Purchases of tangible personal property made by a state government agency is exempt from sales tax. The state sales tax exemption number is E-2001, and certificates will be furnished upon request by the

purchasing agency. The contractor must provide a valid Vendor Tax Identification Number as a provision of the contract.

The purchasing agency will determine if services provided under this contract are Form 1099 reportable. The purchasing agency may require the contractor to submit an IRS Form W-9.

The state tax exemption number should not be used by contractors in the performance of a contract.

A contractor or service provider performing any contract, including service contracts, for the United States Government, State of North Dakota, counties, cities, school districts, park board or any other political subdivisions within North Dakota is not exempt from payment of sales or use tax on materials, tangible personal property, and supplies used or consumed in carrying out contracts. In these cases, the contractor is required to file returns and pay sales and use tax just as required for contracts with private parties. Contact the North Dakota Tax Department at 701-328-1246 or visit their website at <https://www.nd.gov/tax/tax-resources/> for more information.

A contractor performing any contract, including a service contract, within North Dakota is also subject to the corporation income tax, individual income tax, and withholding tax reporting requirements, whether the contract is performed by a corporation, partnership, or other business entity, or as an employee of the contractor. In the case of employees performing the services in the state, the contractor is required to withhold state income tax from the employees' compensation and remit to the state as required by law. Contact the North Dakota Tax Department at 701-328-1248 or visit their website for more information.

#### **1.15 PROPOSAL RECEIPT DEADLINE – LATE PROPOSALS REJECTED**

An Offeror is solely responsible for ensuring their proposal is received by the STATE prior to the Solicitation Closing deadline identified in the RFP schedule regardless of the method of submission. A solicitation amendment will be issued if this deadline is changed. An Offeror may contact the Procurement Officer to inquire whether their proposal has been received. Proposals delivered late will be rejected pursuant to [N.D.A.C. § 4-12-08-13](#).

#### **1.16 PROPOSAL OPENING**

A public opening will not be held.

This is a formal sealed Request for Proposal (RFP) process. Proposals will be secured and held unopened until the Solicitation Closing deadline. Per [N.D.A.C § 4-12-08-04](#), the openings may be made public at the discretion of the purchasing agency. If a public opening is held, only the names of Offerors that submitted proposals can be revealed at the opening, and each proposal will be opened in a manner to avoid disclosure of the contents to the competing Offerors.

#### **1.17 AMENDMENT AND WITHDRAWAL OF PROPOSALS**

Offeror may amend, supplement, or withdraw proposal prior to the Solicitation closing deadline. No changes will be accepted after the Solicitation closing deadline. After the Solicitation closing deadline, Offeror may make a written request to withdraw their proposal and shall provide evidence that a substantial mistake has been made, at which point the STATE may permit withdrawal.

#### **1.18 NEWS RELEASES**

Offerors shall not make any news releases related to this RFP without prior approval of the STATE.

#### **1.19 CONFLICT OF INTEREST**

Under state laws and rules, a state employee or official shall not participate directly or indirectly in a procurement when the state employee or official knows of a conflict of interest. Potential conflicts of interest include state employees or their immediate family members employed by the firm, seeking

employment with the firm, or with a financial interest in the firm. Potential conflicts of interest will be addressed in accordance with [N.D.A.C. § 4-12-04-04](#). ([N.D.C.C. § 12.1-13-03](#))

Persons employed by the State of North Dakota, or within one year thereafter, may be prohibited from acquiring a pecuniary interest in a public contract or transaction. Offerors should review [N.D.C.C. § 12.1-13-02](#) to ensure compliance and avoid such conflict(s) of interest.

#### **1.20 ATTEMPT TO INFLUENCE PROHIBITED**

Offerors must not give or offer to give anything to a state employee or official that might influence or appear to influence procurement decisions. Suspected attempts to influence will be handled in accordance with [N.D.A.C. § 4-12-04-05](#).

#### **1.21 COLLUSION PROHIBITED**

Offerors must prepare proposals independently, without collusion. Suspected collusion will be handled in accordance with [N.D.A.C. § 4-12-04-06](#).

#### **1.22 PROTEST AND APPEAL**

An interested party may protest a solicitation pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-01](#). When a solicitation contains a deadline for submission of questions and objections, protests of the solicitation will not be allowed if these faults have not been brought to the attention of the Procurement Officer before the specified deadline. If no deadline for questions is specified, protests based upon defects in the solicitation must be made at least seven calendar days before the deadline for receipt of proposals.

An Offeror that has submitted a response to a solicitation and is aggrieved may protest an award or notice of intent to award pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-02](#). The protest must be submitted in writing to the Procurement Officer during the protest period, which is seven calendar days beginning the day after the notice of intent to award is issued.

The protestor may appeal the decision of the Procurement Officer to the Director of OMB or designee in writing within seven calendar days after receiving notice of the decision pursuant to [N.D.C.C. § 54-44.4-12](#) and [N.D.A.C. § 4-12-14-03](#).

#### **1.23 SPECIFICATIONS PREPARED BY NON-STATE PERSONNEL**

When a purchasing agency has specifications prepared by someone other than a state employee or official on behalf of the STATE, that person or business entity must be excluded from submitting bids or proposals in accordance with [N.D.A.C. § 4-12-06-06](#).

#### **1.24 SUPPLIER REGISTRATION (PAYEE)**

The successful Offeror will be required to complete Supplier Registration, if not already registered as a Supplier. Any individual or business who will be receiving payment from a state agency or higher education institution must complete a registration process to collect important financial and taxpayer information. Payments are generally made by check or automatic clearing house (ACH), and taxpayer information must be collected in compliance with IRS requirements. The State and North Dakota University System (NDUS) have separate financial systems and vendor registration processes.

## SECTION TWO – BACKGROUND

### 2.1 BACKGROUND INFORMATION

The North Dakota Retirement and Investment Office (RIO) was established in 1989 to coordinate the activities of the State Investment Board (SIB) and the Teachers' Fund for Retirement (TFFR) as stated in [N.D.C.C. § 54-52.5-01](#) (North Dakota Century Code). The mission of the North Dakota RIO is to provide prudent and transparent investment services for our client funds and support North Dakota public school educators with responsible benefit administration.

The SIB is established in [N.D.C.C. § 21-10](#) and has statutory responsibility for the administration of the investment program of several funds including the Teachers' Fund for Retirement, the Public Employees Retirement System, the Workforce Safety & Insurance Fund, and the Legacy Fund. The SIB also maintains contractual relationships for investment management with certain political subdivisions. The investment program is highly sophisticated with ten asset classes and approximately 42 external investment manager relationships. The investments are pooled into three distinct groups, pension, insurance, and Legacy Fund, and currently includes 30 state and local government funds. All investments are currently managed externally. The investment program has had significant growth in the past decade and is now implementing internal investing.

The mission of the TFFR division is to administer a comprehensive retirement program that provides North Dakota public educators with a foundation for retirement and security. The retirement program is currently implementing a multi-year pension system software upgrade. The TFFR has approximately 25,000 active, inactive, and retired members and over 200 employers.

RIO is seeking to fill the positions of Executive Director (ED) and Chief Financial and Operating Officer (CFO-COO).

#### A. Executive Director (ED)

The Executive Director is appointed by the SIB. This position oversees the planning, supervising, and directing of the office operations, under the general direction of the SIB and TFFR board in accordance with governing statutes and board governance policies. (See Attachment A)

#### Current Structure:

The ED has oversight responsibility of thirty-three (33) full-time employees, including an executive team consisting of:

- Deputy Executive Director/Chief Retirement Officer who oversees the administration of the TFFR pension program in accordance with government statutes and rules,
- Chief Investment Officer who oversees the investment program of the SIB,
- Chief Financial/Operating Officer who oversees the fiscal and operations teams that provide support to the TFFR pension program and the SIB investment program.

The Executive Director is appointed by and serves at the pleasure of the SIB. Key areas of responsibility include the following:

- Administer the investment and retirement programs of RIO, oversee planning, supervising, and directing overall RIO programs in accordance with SIB and TFFR governance policies, federal and state laws, and rules, and perform related work as assigned by the SIB and TFFR Board.
- Responsible for the developing the annual, biennial, and strategic long-range plans for RIO and both the SIB and TFFR Board.

- Develop administrative rules, policies, and procedures necessary to administer the retirement and investments programs and seek committee and board approval for changes when appropriate.
- Direct the preparation and execution of the RIO budget and legislative agenda for the agency and both the SIB and TFFR boards.
- Represent RIO, promote RIO programs, and has the authority and responsibility to carry out the day-to-day administrative duties for RIO including developing and approving policies relating to the effective operation of the Office.
- Develop and prepare or direct the preparation of agendas and materials, meeting minutes, required notices, procedures, and applicable rules and regulations for the retirement and investment programs and attend all meetings of the SIB and TFFR Board and corresponding committees.
- Hire staff as necessary to carry out the responsibilities of RIO. Provides leadership, coaching and feedback to assigned staff, recommending measures to improve performance and increase efficiency.
- Establishes and maintains working relationships across all organizational work units and levels.
- Maintain effective relationships with clients, members, beneficiaries, business partner, state officials, legislators and legislative committees, member and business partner stakeholder groups, the media, and the public at large relevant to both the retirement and investment programs.
- Advise the SIB and TFFR Board on significant issues, problems or developments pertaining to the plan, and provide recommended courses of action as appropriate regarding Board policy or action.
- Assures accountability and compliance with all statutory and SIB and TFFR Board prescribed policies and procedures.

The SIB has named an Interim Executive Director while an executive search is conducted to find a candidate to fill this position. The Interim ED is a potential candidate for the position.

Position location:

The Executive Director must be or be willing to become a resident of the state of North Dakota (NDCC 44-03-04). This position is located in Bismarck, ND with an option to telecommute two-three days per week.

Estimated Salary:

For the purposes of this Request for Proposal, the salary for the Executive Director position is anticipated to be in the range of \$210,000 - \$238,000. The actual salary will be dependent upon qualifications and experience of the selected candidate.

Incentive Compensation: North Dakota Century Code Chapter 54-52.5 provides that RIO may develop an incentive compensation program for full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board. The current Incentive Compensation Plan (see Attachment C) allows for a maximum incentive compensation opportunity of 100% for the Executive Director. The Executive Director's award recommendations will be made to the Executive Review and Compensation Committee (ERCC) of the SIB. The ERCC will make a recommendation regarding the incentive compensation awards to the SIB for approval. For all Participants, an incentive compensation award is contingent on approval of the award by the SIB, in its sole discretion.

## **B. Chief Financial and Operating Officer (CFO/COO)**

The CFO/COO is not appointed by the SIB, rather is hired by the RIO staff. This position provides management oversight of the fiscal operations as well as strategic initiatives and internal operations of the agency, which includes TFFR benefits administration and SIB investment activities. These operations include accounting, investment, budgeting, payroll, purchasing, procedure and policy design, external audits, reporting and strategic and legislative planning. (See Attachment B)

### Current Structure:

The CFO/COO is a member of the RIO Executive Team, and reports to the Executive Director. The CFO/COO has oversight responsibility of nine (9) full-time employees, including three (3) direct reports.

Key areas of responsibility include the following:

- Serve as a valued member of RIO's Executive Team.
- Lead RIO's Operations and Fiscal Divisions. Develop, implement, and evaluate long-range plans in alignment with RIO's strategic goals. Provide expertise and guidance for all fiscal activities and reporting of the agency, including oversight of the agency budget, financial statements, investment performance reports, and annual actuarial valuations and reports.
- Develop, enhance, and guide operational functions of the investment program and TFFR program.
- Serve as a liaison between the State Investment Board (SIB), investment managers, consultants and custodians, SIB clients and affiliates.
- Ensure cash liquidity is maintained for client funds and cash flow needs; ensure investment rebalancing is completed in accordance with SIB policy and fiduciary responsibility.
- Ensure compliance with all applicable laws, rules, and policies and guide risk management and disaster recovery efforts.
- Participate in the development of legislation, administrative rules, and policies.
- Manage Fiscal and Operations team. Provide leadership, coaching and feedback to assigned team members, recommending measures to enhance performance and increase efficiency.

RIO has named an Interim CFO/COO while an executive search is conducted to find a candidate to fill this position. The Interim CFO/COO is not a potential candidate for the position.

### Position location:

This position is located in Bismarck, ND with an option to telecommute two-three days per week.

### Estimated Salary:

For the purposes of this Request for Proposal, the salary for the Executive Director position is anticipated to be in the range of \$140,000 - \$163,000. The actual salary will be dependent upon qualifications and experience of the selected candidate.

Incentive Compensation: North Dakota Century Code Chapter 54-52.5 provides that RIO may develop an incentive compensation program for full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board. The current Incentive Compensation Plan (see Attachment C) allows for a maximum incentive compensation opportunity of 60% for the CFO/COO. For all Participants, an incentive compensation award is contingent on approval of the award by the SIB, in its sole discretion.

Additional information about RIO, SIB, and TFFR can be found here:

<https://www.rio.nd.gov/>

2024 Annual Comprehensive Financial Report:

<https://www.rio.nd.gov/sites/www/files/documents/PDFs/RIO/Reports/annualreport2024.pdf>

SIB Governance Manual:

<https://www.rio.nd.gov/sites/www/files/documents/PDFs/SIB/Board/GovernanceManual.pdf>

TFFR Program Manual:

<https://www.rio.nd.gov/sites/www/files/documents/PDFs/TFFR/teachersprogrammanual.pdf>

## **2.2 BUDGET**

The funds for payment of this contract are already appropriated and identified.



## SECTION THREE – SCOPE OF WORK

### 3.1 SCOPE OF WORK

The Contractor shall provide the SIB with executive recruiting services for two searches as described below to fulfill the purpose of this RFP. STATE has an expectation that some onsite presence will be provided by the Contractor.

#### **Search 1 – Executive Director**

- Assistance in identifying desired skills and qualifications;
- Assistance with preparation of a search timeline;
- Assistance with review of the current job description and recommendations for amendments as appropriate;
- Identification and recruitment of nationwide candidates;
- Candidate appraisals, reference checks, mining of public domain information on the Internet, interviews and preparation of experience summaries, cultural fit assessment, and in-depth evaluations;
- Development and implementation of a process to narrow the candidate list;
- Assist in the development of the interview questions used by the SIB executive search committee with the narrowed candidate list;
- Assistance with arrangements for SIB executive search committee interviews;
- Responsible for finalists' background checks, including;
  - Credit Bureau Checks
  - Assist the State in conducting Criminal Background Checks in accordance with NDCC 12-60-24
- Assistance with arrangements for and interviews by the SIB;
- Assistance negotiating a compensation package and employment terms and other customary or requested assistance in connection with the search;
- Provide SIB with progress reports.

#### **Employment Guarantee**

Offerors must guarantee continued employment of the individual hired for a minimum of one year, preferably two years. If the individual leaves prior to the employment guarantee timeframe from the date of hire, the Offeror must reengage in one equivalent replacement search on an expenses-only basis (no additional fee), unless the candidate's departure has been caused by significant changes in reporting structure or responsibility. The State will not reimburse the contractor for expenses exceeding the maximum specified amount unless the contractor obtains prior written approval from the State in an amendment to the contract.

#### **Search 2 – Chief Financial and Operating Officer**

RIO staff intends to manage the interview and hiring process for the CFO/COO position. All applicants will need to apply online at [www.nd.gov/careers](http://www.nd.gov/careers). RIO staff will provide all application materials received to the selected firm. Offeror will assist with the search and development of a narrowed candidate list including the items described here:

- Assistance in identifying desired skills and qualifications;
- Assistance with preparation of a search timeline;
- Assistance with review of the current job description and recommendations for amendments as appropriate;
- Identification and recruitment of nationwide candidates;

- Direct candidates to apply online at [www.nd.gov/careers](http://www.nd.gov/careers);
- Candidate appraisals, reference checks, mining of public domain information on the Internet, interviews and preparation of experience summaries, cultural fit assessment, and in-depth evaluations;
- Development and implementation of a process to narrow the candidate list, which must be based on a 100-point scale and include veteran’s preference;
  - Sample scale (example only):

<b>100 point scale</b>		
Relevant experience		
	5+ years’ experience in combined management/executive management	Up to 25 points
	Investment accounting experience	Up to 25 points
	Public Pension Plan or Public Plan Direct Experience (or relevant Institutional Experience)	Up to 15 points
	Technology skillset in accounting tools, automation, etc.	Up to 10 points
Education		Up to 15 points
CPA and/or other credentials		Up to 10 points
Veterans Preference		5-10 points
<b>TOTAL</b>		<b>Up to 100 points (plus Veterans Preference)</b>

- Provide a narrowed candidate list to RIO staff;
- Provide all candidate scoring to RIO staff;
- Assist in the development of the interview questions to be used by RIO staff with the narrowed candidate list;
- Responsible for finalists’ background checks, including;
  - Credit Bureau Checks
  - Assist the State in conducting Criminal Background Checks in accordance with [NDCC 12-60-24](#)
- Provide RIO staff with progress reports.

In accordance with [OMB Fiscal Policy 517](#), the State will pay the reasonable costs of interviewees for jobs within the state, provided reimbursement for meals and lodging is at the same rate as for employees.

### **Open Records**

North Dakota is an open meetings and open records state. Upon award, all proposals for the search firm will become public record, open and accessible to the public upon request (Ref. RFP sections 4.18 and 7.10). All information related to the candidates brought forward by the search firm, including employment applications, nominations, reference letters and other documents received or created by SIB members, RIO employees, SIB search committee members or their agents in connection with this search are confidential records under N.D.C.C. section 44-04-18.27, except for candidates designated as “finalists” which are public records. Meetings of the SIB search committee and the SIB generally are

open to the public; notice of meetings and posting of agenda are required. Executive sessions or "closed" meetings may be held to discuss information designated as confidential under North Dakota public records law. The State will work with the Contractor to respond to any open records requests.

### **3.2 APPLICABLE DIRECTIVES**

This project is subject to the following:

[N.D.C.C. Chapter 21-10](#) State Investment Board (SIB)

[N.D.C.C. Chapter 54-52.5](#) State Retirement and Investment Office

[N.D.C.C. Chapter 15-39.1](#) Teachers' Fund for Retirement

[N.D.C.C. Chapter 37-19.1](#) requires that certain veterans and spouses of qualifying veterans be granted preference in public employment

[N.D.A.C. 102-01](#) State Investment Board

[N.D.A.C. 103-1](#) State Retirement and Investment Office

[N.D.A.C. 82-01-01](#) Organization of the Teachers' Fund for Retirement

[North Dakota Constitution Article X Section 26 Legacy Fund](#)

[Current Position Description/SIB Governance Policies](#) - See Attachments A and B

The contractor is responsible for identifying and complying with all state and federal requirements that apply to the contract.

### **3.3 REQUIREMENTS**

#### **A. LOCATION OF WORK/TRAVEL**

The Contractor shall determine the extent of on-site work required to fulfill stated requirements.

#### **B. STATE-FURNISHED PROPERTY/SERVICES**

The STATE will provide access to office personnel, documents and data as required by the Contractor. If the Contractor is conducting on-site work in Bismarck, the State will provide the Contractor with a reasonable amount of office space. The State will also provide the Contractor with access to copy and fax machines.

#### **C. RISK MANAGEMENT**

The contractor will take appropriate measures to ensure the safety of their employees, state employees, the public, and property. The contractor must identify any potential risks, issues and problems associated with the project and identify ways to mitigate those potential risks.

#### **D. PROJECT MANAGEMENT PLAN**

The contractor will be expected to use appropriate project management to ensure the work is accomplished on time, within budget, and meets quantity and quality standards.

1. The contractor will be required to collaborate with the STATE to agree upon the contract schedule, including a work breakdown, schedule of tasks and activities, and progress milestones.
2. The contractor will be required to coordinate with the STATE to develop a communication plan. Any problems or unforeseen events must be communicated timely to the STATE project manager and any changes must be agreed upon between the parties and set forth in a written amendment to the contract. If the STATE requires corrective action, the contractor will be notified in writing.
3. Contract Closeout Plan

When the contract is completed, the STATE and contractor will communicate regarding the contract closeout, including transition of any records. A contract closeout debrief may be performed at the discretion of the Procurement Officer or project manager designated by the STATE. The debriefing time and location will be negotiated between the STATE and contractor. The contractor must collaborate in the development of a Project Closeout Report to include feedback regarding the project implementation and any lessons learned.

## E. CONTRACT TERM, SCHEDULE, AND DELIVERABLES

### 1. Contract Term

The length of this contract will be from the date of award, approximately [Insert Date](#), for approximately two years after the start date of the final successful candidate. See the attached contract for extension provisions.

### 2. Schedule and Deliverables

The STATE has identified the following deliverables which are significant work products or milestones in the project. The STATE requires these deliverables to be addressed in the Contract Schedule, at a minimum. The contractor shall develop a schedule for accomplishing the Scope of Work, including these specific deliverables. The final schedule shall be agreed upon between the STATE and the successful Offeror and incorporated into the contract. The approximate schedule for this contract is as follows:

- a. Contract start
- b. "Kick off" meeting/conference call: Within one week of contract signing
- c. Contractor provides weekly progress reports
- d. Contractor provides draft job descriptions for review
- e. State finalizes job descriptions
- f. Contractor provides draft 100-point scale for review (Search 2 only)
- g. State finalizes 100-point scale (Search 2 only)
- h. Contractor provides draft interview questions for review
- i. State finalizes interview questions
- j. Contractor provides narrowed candidate lists
- k. Contractor assists with scheduling preliminary interviews (Search 1 only)
- l. Contractor assists with scheduling and coordinating travel for finalist in-person interviews (Search 1 only)
- m. Contractor facilitates and provides finalists' background checks
- n. Contractor assists with negotiating a compensation package and employment terms (Search 1 only)
- o. Contract Closeout Plan

## 3.4 EXPERIENCE AND QUALIFICATIONS

### A. Minimum Experience and Qualifications

The Offeror must meet the following experience requirements to be considered for contract award. A proposal from the Offeror that does not meet minimum experience requirements will be rejected. The Offeror must have expertise in executive recruitment services, specifically; previous experience with the recruitment of public/private fund executives and public/private fund investment professionals, both responsible for the management of funds in excess of \$10 Billion.

## SECTION FOUR – PROPOSAL INSTRUCTIONS

### 4.1 PROPOSAL PREPARATION

The STATE discourages overly lengthy and costly proposals. An Offeror must prepare their proposal using the prescribed proposal format and provide all the requested information; this will enable the proposal to be evaluated fairly and completely. If an Offeror submits more than one proposal, each proposal must be prepared in accordance with these instructions.

Each proposal will include a Technical Proposal and a Cost Proposal prepared in accordance with these instructions. The Technical Proposal and the Cost Proposal must be submitted as separate documents, clearly labeled with the name of the Offeror, and marked “Technical Proposal” and “Cost Proposal.” Costs must not be revealed in the Technical Proposal. Options may be discussed in the technical proposal, but all cost information must be in the Cost Proposal only. DO NOT submit documents that are embedded into proposal documents or that contain links to documents on an external website.

### 4.2 PROPOSAL SUBMISSION INSTRUCTIONS

#### UPLOAD RESPONSE THROUGH THE STATE PROCUREMENT ONLINE SYSTEM (SPO ONLINE):

Offeror **must** electronically submit proposals through the State Procurement Office Online system (SPO Online) by the Solicitation Closing deadline.

DO NOT WAIT UNTIL THE “LAST MINUTE” TO SUBMIT A RESPONSE. We recommend uploading your response 24 hours prior to the Solicitation Closing deadline.

Offeror must begin the electronic submission process well in advance of the Solicitation Closing deadline to allow for transmission and resolution of any technical difficulties. Be advised that the STATE is not responsible for an Offeror’s failure to timely submit a proposal due to any technical difficulties. If you experience any technical difficulties, contact the Procurement Officer or the State Procurement Office at [infospo@nd.gov](mailto:infospo@nd.gov) or 701-328-2740.

If documents are in the process of being uploaded when the Solicitation Closing deadline occurs, the upload process will stop. The attempted submission will not be uploaded successfully and is ineligible for consideration. The STATE takes no responsibility for electronic submissions that are captured, blocked, filtered, quarantined, or otherwise prevented from uploading by any anti-virus or other security software.

1. This solicitation is posted on SPO Online at: <https://apps.nd.gov/csd/spo/services/bidder/main.htm>
2. Select “Recent Solicitations” and find the solicitation. Solicitations are listed by close date.
3. Use “Upload Response” to upload a maximum of five (5) clearly labeled documents before the Solicitation Closing deadline provided in the RFP Schedule.
4. Offeror must upload their Technical Proposal and Cost Proposal in separate files.
5. The maximum file size allowed is 50 MB per file.
6. There is a 50 character file name limitation for the document being uploaded.
7. There is 75 character limit in the TITLE field within SPO Online.
8. All SPO Online field entries must be alphanumeric. Dashes and underscores are allowed; however, the system DOES NOT accept other special characters such as apostrophe, & symbol, quotation marks, etc.
9. DO NOT submit documents that are embedded (zip files), movies, wmp, encrypted, or mp3 files.
10. Offeror will receive an email confirmation from [infospo@nd.gov](mailto:infospo@nd.gov) that the upload response was received including the “File Description” for the uploaded files. Review this email to ensure all files

were successfully uploaded. If Offeror DOES NOT receive an email confirmation, the upload was NOT successful, and the files will need to be uploaded again. If Offeror does not receive an email confirmation after the reattempt, contact the Procurement Officer or the State Procurement Office at [infospo@nd.gov](mailto:infospo@nd.gov) or 701-328-2740.

Visit <https://www.omb.nd.gov/sites/www/files/documents/doing-business-with-the-state/procurement/spo-electronic-response-external-job-aid.pdf> for the SPO Electronic Response Job Aid which describes how to submit an electronic response.

### **4.3 PROPOSAL FORMAT**

Prepare the Technical Proposal and Cost Proposal in accordance with these instructions.

Technical Proposal – Format the proposal with the following labeled sections:

- Section 1 – Cover Letter
- Section 2 – RFP Amendments
- Section 3 – Scope of Work Strategy
- Section 4 – Experience and Qualifications
- Section 5 – Contract Provisions
- Section 6 – Open Records and Confidentiality

Cost Proposal – The Cost Proposal must be a separate document. Format the Cost Proposal following the RFP instructions.

### **4.4 TECHNICAL PROPOSAL**

#### **SECTION 1 – COVER LETTER**

Proposals shall include a cover letter that includes the following:

1. The name of the Offeror, name of the person to contact regarding the proposal, email address, telephone number, and mailing address.
2. Offerors are instructed to review the “Conflict of Interest” provisions in RFP Section 1 “Instructions.” If the firm, its employees, or subcontractors working on the contract have an apparent or actual conflict of interest, provide a statement disclosing the circumstances of the apparent or actual conflict of interest. Otherwise, provide a statement that your firm, employees, and subcontractors do not have a conflict of interest.
3. The cover letter must be signed by an individual with authority to bind the Offeror. By signing the cover letter, an Offeror certifies that it complies with:
  - a. All the requirements, terms, and conditions as set forth in this RFP.
  - b. The requirement that the Offeror’s proposal accurately describes the goods and services being offered to the STATE, and the proposal will be held firm for the period specified.
  - c. All local, state, and federal laws, rules, code laws, rules, code, regulation, and policies, including those relating to nondiscrimination, accessibility, civil rights, and equal employment.
  - d. The requirement that this proposal was prepared independently without collusion.

#### **SECTION 2 – RFP AMENDMENTS**

Provide signed copies of all Solicitation Amendments issued by the STATE that were required to be acknowledged by Offerors.

#### **SECTION 3 –SCOPE OF WORK STRATEGY**

Offeror must review the requirements and deliverables provided in RFP Section 3, Scope of Work.

1. **Applicable Directives.** The Offeror must identify any state and federal requirements that apply to the contract.
2. **Strategy for Scope of Work Requirements.** The Offeror must provide narrative statements to demonstrate their understanding of the scope of work requirements. Explain the proposed strategy to accomplish the scope of work, meet all requirements, and provide the deliverables described in the scope of work within the STATE's project schedule.
3. **Value-Added Options.** Offerors may include any optional services or goods that are not required by the STATE but are within the scope of work (e.g., an option for a higher level of service, equipment accessories, extended warranty options, etc.). Describe any value-added options being offered.
4. **Location of Work.** The proposal must respond to the STATE's Location of Work instructions within the RFP Scope of Work. Describe where the work will be performed and any proposed travel.
5. **State Furnished Property and Services.** Provide a detailed breakdown of the Offeror's expectations for STATE resources that will be needed for the project, including number of staff, qualifications, roles and responsibilities, and time requirements for the various phases of the project.
6. **Risk Management.** Offerors must describe measures to be taken to ensure the safety of its employees, state employees, the public, and property. Offerors must also identify any pertinent issues and potential problems related to the project and describe how those potential issues and problems could be mitigated.
7. **Project Management Plan.** The proposal must describe how the contractor intends to manage the project to ensure the work is accomplished on time, within budget, and meet quantity and quality standards. Offerors may provide a narrative or organizational chart to illustrate the lines of authority and accountability.
8. **Proposed Schedule and Deliverables.** The proposal must provide a timeline for accomplishing the work, in consideration of the STATE's Contract Schedule within the RFP Scope of Work.

#### **SECTION 4 –EXPERIENCE AND QUALIFICATIONS**

**Mandatory Requirements.** An Offeror must provide information to demonstrate meeting the Offeror Experience and Qualifications Requirement in RFP Section 3, Scope of Work, [Experience and Qualifications](#).

##### **Experience and Qualifications of the Firm**

Provide a brief history and describe the organization of the firm. Describe the number of years the Offeror has provided the type of work requested in this RFP. Describe specific experience of their firm in completing similar projects. Provide a description of the project, approximate time frame of the project, and contact information for the customer. Offerors may provide letters of reference from customers.

1. Statement indicating their experience of their firm in recruitment of public/private fund executives responsible for the management of funds in excess of \$10 Billion.

2. List of similar recruitment projects, including those for local or state governments, and private sector companies. Provide contact information for previous clients with recruitment services similar to this project. The State reserves the right to contact any references the offeror provides.
3. Certification that the firm meets the requirement to be independent and without conflicts related to RIO.

### **Experience and Qualifications of the Project Team**

Provide a narrative or organizational chart that describes the organization of the proposed project team. Provide information for key project team members, including:

1. Lead consultant contact information and network of public, including pension, and private fund investment industry contacts and resources
2. Description of anticipated work all team members will perform and approximate estimated hours;
3. Resume, and or narrative description of professional experience related to the recruitment of public/private fund executives and public/private fund investment professionals experience and qualifications;
4. Technological acumen in recruitment programs and software used to complete the scope of work;
5. Professional certifications, licenses, and permits, if required by federal, state, or local law, to publicly perform recruitment services identified in the Contractor's work strategy
6. Offeror must provide a designated executive level contact that will act as a point of contact for any issues that need escalation or to discuss the needs of the STATE. This point of contact will be required to participate in any requested demonstration or presentation requested during the RFP process. They will discuss how the contract will be supported and how the Offeror and STATE will work together to ensure a successful outcome;
7. If the Offeror has vacant positions, identify the job description and minimum qualifications for staff members to be recruited;
8. Subcontractors. If an Offeror intends to use subcontractors, the Offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform. Provide a statement that the Offeror will ensure that the subcontractor has or will obtain any required licenses and registrations, including registration with the North Dakota Secretary of State; and
9. Joint Venture. If submitting a proposal as a joint venture, provide narrative statements that describe the roles and responsibilities of each party to the joint vendor. If available, submit a copy of the joint venture agreement that identifies the parties involved and their rights and responsibilities.

### **References**

Provide three (3) references for similar projects the Offeror has completed within the last five (5) years. Offerors must include the name of a contact person, address, email, and telephone number. Offerors are responsible for providing accurate reference contact information and are instructed to notify the reference that the STATE may be contacting them. Reference checks may begin within one (1) business day of the Solicitation Closing deadline. Evaluation may be impacted if the STATE is unable to contact the reference or the reference does not provide the requested information in a timely fashion. Offerors are invited to provide letters of reference from previous clients.

### **SECTION 5 – CONTRACT PROVISIONS**

Offeror shall review the RFP Section 6 and the STATE's contract – Attachment F.



The proposal must indicate whether the Offeror accepts the terms and conditions in the STATE's contract.

An Offeror may state that they accept the STATE's contract as written.

An Offeror may state any objections or propose changes or additions to the STATE's contract. Describe the changes to the contract being proposed or provide a red-line of the STATE's contract. Offeror is not to submit their own contract or standard terms and conditions with their proposals. Offeror should address the specific language in the attached contract and submit any proposed changes.

North Dakota procurement statutes, rules, and policies allow some negotiation of the terms and conditions. No changes to the terms and conditions will be permitted without prior written approval from the STATE.

### **SECTION 6 – OPEN RECORDS AND CONFIDENTIALITY**

All proposals and other material submitted become the property of the STATE and may be returned only at the STATE's discretion. The State of North Dakota has broad open records laws. Proposals received are exempt from open record requirements until an award is made, in accordance with [N.D.C.C. § 54-44.4-10\(2\)](#). After award, proposals are subject to the North Dakota open records laws. Proposals or portions of proposals may be confidential only if specifically stated in law.

Offerors are instructed not to mark their entire proposal as "confidential".

Offeror must provide one of the following in their proposal:

- Provide a statement indicating that their proposal does not contain any confidential information, OR
- Make a written request to hold confidential any trade secrets and other proprietary data contained in their proposal. Offeror must clearly identify the material considered confidential and explain why the material is confidential. See the North Dakota Office of the Attorney General website for additional information at <https://www.legis.nd.gov/cencode/t44c04.pdf> and <https://attorneygeneral.nd.gov/open-records-meetings>

If the STATE receives a request for public information, the Procurement Officer, in consultation with the Office of the Attorney General, shall determine whether the information is an exception to the North Dakota open records laws, and the information shall be processed accordingly.

### **4.5 COST PROPOSAL**

**Cost Proposal Format.** Cost proposals must be prepared as a separate document from the technical proposal, clearly labeled, "Cost Proposal".

Offeror must complete the Cost Proposal Format - Attachment D or prepare a Cost Proposal following the same format.

**Value-Added Options.** Offeror may include pricing for any value-added options that are described in the Offeror's proposal as options, but not included in the total cost. Any options must be within the scope of work. (e.g., an option for a higher level of service, equipment accessories, extended warranty options, etc.). Provide details related to initial cost, reoccurring costs, and options. The STATE shall not consider these costs as part of cost evaluation scoring.

All costs must be stated in U.S. currency. Any commodities being imported must be identified, and the price must include any applicable shipping and handling, customs, brokerage agency fees, and duties.

Offeror should describe any discount terms for prompt payment. Discounts for prompt payment will not be considered in evaluating costs.

## SECTION FIVE – AWARD AND PROPOSAL EVALUATION

### 5.1 AWARD

The STATE intends to award a contract to the responsible Offeror whose proposal is determined to be responsive to the requirements of the solicitation and is determined to be the most advantageous in consideration of the RFP evaluation criteria.

### 5.2 RESPONSIVENESS

All proposals will be evaluated to determine if they are responsive to the requirements of the solicitation. The STATE reserves the right to waive minor informalities in accordance with [N.D.A.C. chapter 4-12-10](#). Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from RFP document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other Offerors. Responsive proposals will be evaluated by the Procurement Officer or evaluation committee using the evaluation criteria stated within the RFP.

### 5.3 RESPONSIBILITY – SUPPLEMENTARY INVESTIGATION

The STATE reserves the right to contact references, other customers, including state and local government agencies, regarding past experience with the Offeror. Prior experience of the state agency or institution with any prospective Offeror may also be taken into consideration during evaluation.

The STATE may, at any time, make a supplementary investigation as to the responsibility of any Offeror in accordance with [N.D.A.C. § 4-12-11-04](#). This investigation may include, but is not limited to, financial responsibility, capacity to produce, sources of supply, performance record, or other matters related to the Offeror's probable ability to deliver if a contract is awarded to the Offeror. If it is determined that an Offeror appears not to be sufficiently responsible, the proposal will be rejected.

### 5.4 EVALUATION CRITERIA

Proposals will be evaluated using a 100 point scale. The evaluation committee will award points based on the questions in the Technical Proposal Evaluation Worksheet – Attachment E. The Technical Proposal evaluation score and Cost Proposal evaluation score will be added together to determine the total evaluation score. After the initial evaluation, the evaluation committee may determine which proposals are reasonably susceptible for award and continue the evaluation process with only those Offerors. Offerors whose proposals are not selected for further evaluation may request a debrief from the Procurement Officer after an award notice is issued. The final evaluation score will consider information received by the STATE, including but not limited to, discussions with Offerors, demonstrations, presentations, site visits, reference checks, and best and final offers.

The evaluation criteria and relative weight is as follows:

Technical Proposal Evaluation: 80 Points

- A. Scope of Work Strategy – 40 Points
- B. Experience and Qualifications – 40 Points

Cost Proposal Evaluation: 20 Points

Minimum Technical Score: Technical proposals must receive at least 40 of the total points available for the Technical Score to be considered responsive to the RFP requirements.

Preference Laws: Any applicable preference laws will be applied. For more information, refer to the [Guidelines to Preference Laws](#).

## **5.5 COST PROPOSAL EVALUATION**

The STATE will calculate evaluation points awarded to Cost Proposals. Any prompt payment discount terms proposed by the Offeror will not be considered in evaluating cost.

The reciprocal preference law, N.D.C.C. § 44-08-01, was repealed effective August 1, 2023.

The cost amount used for evaluation may be affected by the application of other costs required to implement the proposed solution to determine the total cost of the solution (i.e. cost for ITD to host a STATE hosted solution).

The lowest Cost Proposal will receive the maximum number of points allocated to cost. Cost proposals will be evaluated using the following formula.

### **Price of Lowest Cost Proposal**

$$\text{Price of Proposal Being Rated} \times \text{Total Points for Cost Available} = \text{Awarded Points}$$

## **5.6 CLARIFICATIONS OF PROPOSALS – DISCUSSIONS**

To determine if a proposal is reasonably susceptible for award, communications by the Procurement Officer or evaluation committee are permitted with an Offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Discussions will be limited to the specific section of the RFP or proposal indicated by the STATE. Discussions are generally conducted by telephone or internet-based conference.

In conducting discussions, there may be no disclosure of any information derived from proposals submitted by competing Offerors. Clarifications may not result in material or substantive change to the proposals. Evaluation scores may be adjusted based in consideration of information obtained through discussions.

## **5.7 RIGHT OF REJECTION**

The STATE reserves the right to reject any proposals, in whole or in part. Proposals received from suspended or debarred bidders will be rejected. Proposals determined to be nonresponsive to the requirements of the RFP will be rejected. The STATE reserves the right to reject the proposal of an Offeror determined to be not responsible. The STATE reserves the right to refrain from making an award if determined to be in its best interest.

## **5.8 PRESENTATIONS, DEMONSTRATIONS, AND SITE VISITS**

After the initial evaluation, the evaluation committee may determine which proposals are reasonably susceptible for award and continue the evaluation process with only those Offerors. These Offerors may be required to provide a presentation for the evaluation and/or search committee. Offerors whose proposals are not selected for further evaluation may request a debrief from the Procurement Officer after an award notice is issued.

## **5.9 BEST AND FINAL OFFERS**

The STATE is not obligated to request best and final offers; therefore, Offerors should submit their best terms (technical and cost) in response to this RFP.

If the STATE determines there is a need for additional information, substantial clarification or changes to the RFP or proposals, the STATE may request for best and final offers from Offerors that have submitted proposals determined to be reasonably susceptible for award. The best and final offer request will describe the additional information, clarification, or change being requested.

A date and time will be established for receipt of revised proposals. If an Offeror does not submit a best and final offer, the STATE shall consider its original proposal its best and final offer. Best and final offers will be evaluated using the evaluation criteria stated in the RFP. The STATE may request more than one best and final offer.

## **5.10 TIE PROPOSALS**

In the event that two or more proposals contain identical pricing or receive identical evaluation scores, [N.D.C.C. § 54-44.4-05.1](#) requires preference must be given to a resident North Dakota bidder, seller, vendor, offeror, or contractor as defined in [N.D.C.C. § 44-08-02](#). In the event the tie is not resolved by application of this law, [N.D.A.C. § 4-12-11-05](#) will be applied.

## **5.11 NEGOTIATIONS**

Contract negotiations will be conducted in accordance with [N.D.A.C. § 4-12-12](#). The STATE may enter negotiations with one or more Offeror whose proposals received the highest scores and are reasonably susceptible for award. During negotiations, the STATE and Offeror may agree to alter or otherwise change the terms and conditions and price of the proposed contract. Negotiation, if held, will be within the scope of the RFP and limited to those items that would not have an effect on the ranking of proposals.

Each Offeror will be responsible for all costs it incurs as a result of negotiations, including any travel and per diem expenses. Contract negotiations will be conducted primarily by email, conference calls, or internet-based conference. Any on-site negotiation, if needed, will be held in [Insert City](#), North Dakota.

The STATE may terminate negotiations, reject a proposal as nonresponsive, and continue or commence negotiations with other Offerors reasonably susceptible for award, if the Offeror:

- Fails to provide necessary information for negotiations in a timely manner
- Fails to negotiate in good faith
- Is unable to successfully negotiate contract terms that are acceptable to the STATE
- Indicates that it cannot perform the contract within the budgeted funds

In accordance with [N.D.C.C. § 54-44.4-13.1](#), the STATE and contractor may negotiate payment terms for all commodities and services procured. If a date for payment is not specified in this contract, payment must be made pursuant to section [N.D.A.C § 13-01.1-01](#).

## **5.12 NOTICE OF INTENT TO AWARD**

After proposals have been evaluated and the successful Offeror selected, a notice of intent to award will be promptly issued to all Offerors that submitted proposals. Upon issuance of this notice, the procurement file becomes an open record. The successful Offeror named in the notice of intent to Award is advised not to begin work, purchase materials, or enter into subcontracts until the successful Offeror and the STATE sign the contract.

## **5.13 CONTRACT APPROVAL**

This RFP does not, by itself, obligate the STATE. The STATE's obligation shall commence when the STATE signs the contract. Upon written notice to the contractor, the STATE may set a different starting date for the contract. The STATE shall not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the STATE.

## **5.14 EVALUATION DEBRIEFING**

After the notice of intent to award is issued, Offerors may contact the Procurement Officer to schedule an evaluation debrief. The debrief will provide information about the evaluation process and proposal scores.

## SECTION SIX – CONTRACT INFORMATION

### 6.1 NORTH DAKOTA CONTRACTUAL REQUIREMENTS – BACKGROUND

As a public institution and government entity of the State of North Dakota (the STATE), there are a number of statutes, rules, and policies (Requirements) that may restrict or prevent the STATE from entering into certain types of contracts or certain contractual terms and conditions, some of these Requirements are non-negotiable.

While these Requirements occasionally make the process of negotiating a contract with the STATE more challenging than negotiating with a private industry business, these are not unique to any one agency of the State of North Dakota. These Requirements apply to all public institutions and government entities of the State of North Dakota. Although some are unique to North Dakota, the majority of these Requirements are common to public institutions and government entities throughout the United States.

### 6.2 STATE CONTRACT TERMS AND CONDITIONS – OFFEROR’S PROPOSED CHANGES

The STATE intends to execute a contract substantially similar to the contract – Attachment [Insert number](#). The Offeror will be required to sign the contract attached to this RFP and must comply with the terms and conditions. The STATE may deem any failure to object to a contract provision as the Offeror’s acceptance of that provision.

North Dakota procurement statutes, rules, and policies allow some negotiation of the terms and conditions. No changes to the terms and conditions will be permitted without prior written approval from the STATE.

Pursuant to [N.D.A.C. § 4-12-11-06](#), proposals subject to conditions imposed by the Offeror may be rejected as nonresponsive, as determined by the STATE. Proposed terms and conditions that conflict with those contained in the attached contract or that diminish the STATE’s rights under the contract shall be considered null and void. The terms and conditions in the attached contract shall prevail in the event a conflict arises between a term or condition in the proposal and a term or condition in the attached contract.

Part or all of this RFP and Offeror’s proposal may be incorporated into the attached contract. The STATE may deem any failure to object to a contract provision as the Offeror’s acceptance of that provision.

### 6.3 CONTRACT PROVISIONS

#### A. Contract Type.

The contract type will be as follows:

Firm Fixed Price. The contractor will be required to hold the price firm for the contract period, except as otherwise provided in the contract.

#### B. Payment Procedures

Compensation and payment terms will be set forth in the contract based upon the successful Offeror’s proposal. The STATE will not make any advanced payments before performance by the contractor under this contract.

- The STATE will make payments based on a negotiated payment schedule. Each billing must consist of an invoice and progress report. No payment will be made until the progress report and the project director has approved the invoice.

C. Inspection & Modification

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the STATE. The STATE may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract.

Should the STATE determine that corrections or modifications are necessary to accomplish its intent, the STATE may direct the contractor to make changes. The contractor will not unreasonably withhold changes.

Substantial failure of the contractor to perform the contract may cause the STATE to terminate the contract. In this event, the STATE may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

D. Contract Changes – Unanticipated Amendments

During the course of the contract entered as a result of this solicitation, the contractor may be required to perform additional work due to a legitimate unforeseen circumstance. That work will be within the general scope of the initial contract. When additional work is required, the STATE shall provide the contractor with a written description of the additional work and request that the contractor submit proposal for accomplishing the scope of work. Contractor will not commence additional work until all parties agree in writing.

E. Purchasing Card

The STATE may make payments under this contract using a state purchasing card. See the contract related to payments using the STATE purchasing card.

## 6.4 CONTRACTUAL TERMS AND CONDITIONS – NO MATERIAL CHANGES

### A. Indemnification and Insurance

[N.D.C.C. § 32-12.2-17](#) requires that the OMB establish guidelines for indemnification and insurance provisions in state contracts. The indemnification and insurance requirements contained in the attached contract are pursuant to those guidelines. The STATE shall not be deemed to have accepted any alteration of these provisions without prior written approval to Offeror from the STATE acting in consultation with the North Dakota Risk Management Division.

### B. Indemnification

Indemnification is a contractual clause by which one party to a contract asks the other party to defend it against any claims of third parties who might be injured as a result of something that occurs while the parties are performing their duties and obligations under the contract. Without specific authority to do so, the STATE agencies cannot enter into agreements indemnifying contractors, or any other entity, against third party claims.

Any clause that has the intent of seeking indemnification from the STATE, whether the clause contains the words “indemnity” or “indemnify,” are not clauses to which the STATE may agree.

The STATE will also not agree to clauses to indemnify a contractor “to the extent permitted by law”. This is because the STATE knows that the extent to which the law permits it to indemnify contractors is no extent whatsoever, and as a result would be disingenuous for the STATE to imply in a contract that there might be some set of circumstances under which the STATE would defend the contractor against a third party claim(s). Simply put, the STATE is not going to agree to something it knows it cannot do. In this circumstance an “extent” clause is merely an invitation to litigate the matter in the event a third party claim(s) arises, and the STATE does not enter into agreements that invite litigation. Do not ask the STATE to indemnify you against third party claims because it is a contractual obligation to which the STATE cannot agree.

While the STATE may limit the liability of a contractor in claims between the STATE and the contractor, the STATE does not have authority to limit a contractor's liability for claims brought by a third party. In the event a contract contains a limitation of liability clause, the contract's Indemnification clause and obligation of the contractor cannot be subject to that limitation of liability clause. See 6.4(D) for Limitation of Liability.

### **C. Insurance**

Upon receipt of the notice of intent to award, the successful Offeror must obtain the required insurance coverage and provide the Procurement Officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the STATE, in consultation with the North Dakota Risk Management Division. The successful Offeror's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

### **D. Limitation of Liability**

The STATE may negotiate Limitation of Liability pursuant to [N.D.C.C. § 32-12.2-15](#) "Contracts limiting liability to the STATE".

Notwithstanding any provision in [N.D.C.C. ch. 32-12.2](#) to the contrary, an agency may agree to limit the liability of a contractor to the STATE if:

1. the agency determines such services or products cannot be effectively obtained without such limitation; and
2. the limitation does not pose any significant risk of loss to the STATE; and
3. the limitation is in the best interests of the STATE.

The agency, in consultation with OMB and the Attorney General's Office, shall prepare written documentation before agreeing to any liability limitation.

An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, electronic equipment, and economic forecasting.

1. An agency may limit its ability to recover indirect consequential damages.
2. If the extent of potential direct loss is unknown, an agency may agree to limit direct damages to a reasonably estimated amount commensurate with the foreseeable risk of loss to the STATE. The amount must be equal to twice the total value of the contract unless all parties to the contract agree to an alternative amount. Any agreed upon amount that is less than twice the value of the contract must be approved by the director of OMB. The liquidated damages and retainage provisions for delay, missed deadlines, and other breaches are not subject to a general limitation on direct or indirect damages authorized under [N.D.C.C. § 32-12.2-15](#).
3. A contract under [N.D.C.C. § 32-12.2-15](#) may not limit any loss to the STATE resulting from fraud or other intentional or willful misconduct, breach of confidentiality obligations, or loss resulting from tangible property damage or personal injury.

### **E. Waivers of Jurisdiction and Venue; Alternative Dispute Resolution**

The North Dakota Attorney General is the STATE's attorney for all purposes, including management of litigation and claims against the STATE. The STATE may not usurp the Attorney General's authority by agreeing in advance to control the way litigation may be managed in the event of a dispute. The STATE cannot, without specific authority, agree to the

jurisdiction or the laws of another state or federal courts, nor can it contractually agree to participate in any form of alternative dispute resolution.

Although the STATE cannot contractually agree to such terms, this does not mean that in the event of a dispute, the STATE would not agree to participate in alternative dispute resolution. It simply means that this is a decision that must be made by the Attorney General and is a decision that is made at the time a dispute arises.

**F. Confidentiality**

All state agencies of North Dakota are subject to North Dakota public records laws. The STATE cannot agree to contractual terms that attempt to prevent it from having to disclose records that are declared public records under applicable statutes. Although some confidentiality and exemptions are allowed under the public records laws, the STATE may not agree to more restrictive obligations concerning its records. Under North Dakota public records laws, contracts are records that are open to the public and may be reviewed at the request of the public.

**G. Unliquidated Expenses (i.e., attorney's fees, add-ons, cost increases)**

Because the STATE may only obligate those funds that have been appropriated to it by the Legislative Assembly and may only obligate those funds for the purposes for which the funds were appropriated, the STATE may not agree to clauses which may obligate it to pay for claims that might exceed its current funding appropriation. Certainly, this is one of numerous reasons why the STATE cannot indemnify a contractor against third party claims, but it may also be said for clauses that purport to obligate the STATE to pay a contractor's attorneys' fees, unknown cost increases during the life of the contract, add-ons that were not contemplated or priced in the contract.

**6.5 SCOPE OF WORK**

The Scope of Work agreed upon by the parties will be incorporated into the attached contract.

**6.6 CONTRACT TERM**

The contract term will be set forth in the contract, including any options for extension, renewal, and renegotiation.

**6.7 RIGHT TO INSPECT PLACE OF BUSINESS**

At reasonable times, the STATE may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the STATE performs an inspection, the contractor must



## **ATTACHMENT A**

### **Executive Director Job Summary (current)**

#### **EXECUTIVE DIRECTOR NON-CLASSIFIED**

##### **JOB SUMMARY**

Oversees planning, supervising, and directing Office operations under the general direction of the State Investment Board (SIB) in accordance with governing statutes and Board Governance Policies.

##### **ESSENTIAL FUNCTIONS**

- Directs overall Office programs through directors and managers in accordance with the SIB governance policies and State laws and rules.
- Provides leadership, coaching, and feedback to assigned staff, recommending measures to improve performance and increase efficiency.
- Develops and approves policies related to the effective operation of the Office.
- Directs the preparation and execution of the budget and legislative agenda. Assures follow through and evaluates results.
- Evaluates and monitors financial and operation programs.
- Establishes and maintains working relationships across all organizational work units and levels.
- Represents the Office and promotes Office programs in a variety of forums.
- Attends Board meetings and brings appropriate issues and information to the Board's attention.
- Assures organization accountability and compliance to the Board.

##### **ADDITIONAL RESPONSIBILITIES**

Performs related work as appropriate or assigned by the State Investment Board.

##### **QUALIFICATIONS**

- Bachelor's degree in Management or Business preferred. Master's or other advanced degree in an appropriate specialized field of study required.
- At least 5 years of combined management/executive management experience, covering a broad range of similar operating and administrative functions, most of which must be gained in a related business environment.
- Must possess excellent communication skills and the ability to make effective and convincing oral and written presentations.
- Must exhibit strong leadership, problem-solving, and decision-making abilities. Ability to effectively lead and influence others in a confident, positive, and results-oriented manner.
- Demonstrated ability to effectively supervise, develop, and direct the activities of a professional management staff.
- Proven ability to analyze, evaluate, and resolve major organizational issues, conflicts, and problems.
- Ability to think and plan on the conceptual and strategic level.
- Ability to effectively promote and lead continuous improvement and change efforts.
- Knowledge of principles of research, statistics, actuarial calculations, investments, and accounting.
- Knowledge of federal and state laws and regulations pertaining to the administration of benefit and investment programs and applicable compliance requirements.

##### **WORKING CONDITIONS**

Physical/Environmental Conditions: This position requires working primarily indoors in an office environment, at a level-surface desk, with access to stairs and an outside ramp. Requirements of the position include sitting for long periods of time, walking, standing, finger dexterity, good vision, and strong speaking skills, and the ability to hear within normal range. The position also involves working under time pressures and deadlines.

This position is classified under OSHA guidelines as a Category III, with no risk of exposure to blood borne pathogens or other potentially infectious materials.

Cognitive/Mental Requirements: This position requires a high aptitude in the areas of reading; writing; simple arithmetic; drawing conclusions from written and/or computer-generated materials; creating methodologies for accomplishing a goal; implementing recommendations by coordinating persons and/or resources; analyzing data or report information; conducting research; assisting in developing plans, procedures, goals, strategies, and/or processes.

Equipment, Tools, Materials Used: Equipment used in this position includes a computer, keyboards, printers, telephones, and copy machine.

#### LOCATION

The Executive Director must be or be willing to become a resident of the state of North Dakota (NDCC 4-03-04). This position is located in Bismarck, ND with an option to telecommute two-three days per week.

#### SUPERVISION

Direct Supervision Over:

- Deputy Executive Director/Chief Retirement Officer
- Chief Investment Officer
- Chief Financial/Operations Officer
- Executive Administrative Assistant
- Supervisor of Internal Audit

Indirect Supervision of approximately 28 additional employees.

## **ATTACHMENT B**

### **Chief Financial and Operating Officer Job Summary (current)**

#### **CHIEF FINANCIAL AND OPERATING OFFICER NON-CLASSIFIED**

##### **JOB SUMMARY**

The Chief Financial/Operating Officer is a member of the RIO Executive Team. This position provides management oversight of the fiscal operations as well as strategic initiatives and internal operations of the agency. These operations include accounting, investment, budgeting, payroll, purchasing, procedure and policy design, external audits, reporting and strategic and legislative planning.

##### **ESSENTIAL FUNCTIONS**

###### **Executive and Fiscal Management**

- a. Participate as an Executive Team member for agency oversight.
- b. As part of the Executive Team, oversee the fair and efficient administration of all payroll and personnel activities.
- c. Provide input to overall agency strategic plan and assist in prioritization, review and updating.
- d. Participate in development of legislation, administrative rules, and policies.
- e. Manage and develop division staff including Fiscal and Investment Operations Manager.
- f. Establish and maintain effective internal controls by providing guidance on the development and maintenance of accounting policies and procedures.
- g. Provide guidance on preparation of financial statements, work papers and other accounting related materials.
- h. Ensure compliance with financial and accounting standards, State fiscal policies and law, and federal tax laws.
- i. Provide guidance for preparation, oversight, and monitoring of agency budget.
- j. Assist Executive Director in presenting budget to OMB and Legislature.
- k. Coordinate fiscal-related data for annual actuarial valuations and reports and maintain high level of knowledge related to actuarial data for TFFR Plan.
- l. Provide guidance for preparation of annual audits and Annual Comprehensive Financial Report (ACFR).
- m. Lead, coordinate and review agency procurement and contract administration. Ensure compliance with State rules and law.

###### **Program Operations**

- a. Assist in researching and analyzing data for internal use and for the boards and other agencies.
- b. Oversee preparation of investment performance measurement reports for the SIB and related agencies.
- c. Serve as liaison between SIB, investment managers, consultants and custodian, SIB clients and affiliates to ensure overall needs are met.
- d. Coordinate preparation for client service meetings and presentations.
- e. Ensure adequate cash liquidity is maintained for client funds and other cash flow needs.
- f. Ensure investment rebalancing procedures are designed and implemented based on SIB policy and fiduciary responsibility.
- g. Coordinate investment transition management projects.
- h. Monitor and evaluate the activities of money managers, master custodian, investment consultants and other agents contracted by the board.

###### **Agency Operations**

- a. Oversee resources to ensure efficiency and effectiveness of operations.

- b. Provide direction and leadership to staff to ensure fulfillment of goals and objectives of the agency.
- c. Ensure consistent application and adherence to all applicable rules, laws, and policies.
- d. Analyze new legislation to determine both the financial and administrative impacts and recommend policy and procedural changes as appropriate.
- e. Guide risk management and disaster recovery efforts for agency.
- f. Seek out, review and test software for potential use by agency.
- g. Assist with publications (newsletters, statistical reports, web page).

#### ADDITIONAL RESPONSIBILITIES

Full budget responsibility of the agency (responsible for development and implementation as well as monitoring).

#### QUALIFICATIONS

- Bachelor's degree in accounting, business administration, finance or closely related field and 10 years of professional accounting or finance experience, including three years of supervisory/management experience.

#### WORKING CONDITIONS

Physical/Environmental Conditions: This position requires working primarily indoors in an office environment, at a level-surface desk, with access to stairs and an outside ramp. Requirements of the position include sitting for long periods of time, walking, standing, finger dexterity, good vision, and strong speaking skills, and the ability to hear within normal range. The position also involves working under time pressures and deadlines.

This position is classified under OSHA guidelines as a Category III, with no risk of exposure to blood borne pathogens or other potentially infectious materials.

Cognitive/Mental Requirements: This position requires a high aptitude in the areas of reading; writing; simple arithmetic; drawing conclusions from written and/or computer-generated materials; creating methodologies for accomplishing a goal; implementing recommendations by coordinating persons and/or resources; analyzing data or report information; conducting research; assisting in developing plans, procedures, goals, strategies, and/or processes.

Equipment, Tools, Materials Used: Equipment used in this position includes a computer, keyboards, printers, telephones, and copy machine.

#### LOCATION

This position is located in Bismarck, ND with an option to telecommute two-three days per week.

#### SUPERVISION

Direct Supervision Over:

- Fiscal and Investment Operations Manager
- Procurement and Records Management Coordinator
- Fiscal and Investment Administrative Assistant

Indirect Supervision of approximately 6 additional employees.

## 2. Incentive Compensation Program Policy

### Executive Summary

North Dakota Century Code Chapter 54-52.5 provides that the North Dakota Retirement and Investment Office may develop an incentive compensation program for full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board.

In carrying out its responsibilities, the Board has developed and administers an incentive compensation plan that reflects careful consideration of the following:

- To achieve its long-term strategic and investment objectives, RIO must have high-quality investment management staff.
- A reasonable and competitive incentive compensation plan is critical to attracting and retaining high quality staff.
- Staff should be motivated to earn the highest possible returns for RIO at reasonable costs and controlled levels of risk.
- Given that RIO needs to provide competitive pay to attract and retain qualified staff, a significant portion of total pay opportunities should be provided through performance-based incentives, a practice that is universally accepted in the financial marketplace. Under RIO's incentive compensation plan:
  - Investment-related awards should be earned only when net investment performance is above defined benchmarks (i.e., when value is created for client funds).
  - The greatest share of the excess value should accrue to the client funds, not to RIO staff.

The incentive compensation plan is rigorously managed by RIO's Executive Review and Compensation Committee (ERCC) to ensure compliance with all applicable statutes and related rules and guidelines.

### Authority

North Dakota Century Code Chapter 54-52.5 provides that the North Dakota Retirement and Investment Office may develop an incentive compensation program for full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board. This document specifies the policies and procedures related to the administration of annual incentive compensation.

This incentive compensation plan (the Plan) provides for payment of incentive compensation awards to full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board (Participants) and supersedes all prior incentive compensation plans and/or arrangements for Participants. Participants under this Plan include all

unclassified investment services related staff as may be determined by the SIB, ERCC, and Executive Director. The Effective Date of the Plan is July 1, 2024. Each plan year starts at the beginning of the fiscal year on July 1.

## **Plan Objectives**

As developed and adopted by the Board, this Plan is designed to:

1. Help attract and retain talented investment professionals.
2. Help RIO earn the highest possible investment returns at a reasonable cost and at controlled levels of risk.
3. Reward long-term investment performance.
4. Reflect the RIO client fund above-benchmark, net of all performance.
5. Motivate staff to make good decisions for RIO client funds, including implementation decisions related to asset allocation.
6. Foster a collaborative approach to investing RIO's assets under management.
7. Reward measurable and achievable performance.
8. Be clear and easily communicated in terms of the Plan's objectives, design features and associated incentive compensation opportunities.
9. Be perceived as fair by RIO's employees and potential recruits.

## **Administration and Management**

The SIB reserves the right to modify, terminate, and/or rescind any or all of the compensation schedules, provisions, policies, and procedures contained in this and all supporting documents at any time. This document describes a policy and does not provide a contract, guarantee of payment, guarantee of participation in the Plan in subsequent years, or guarantee of employment among RIO, the Board, and the Participants. Should an error in calculation or in data be discovered before or after the award distribution, RIO reserves the right to make an adjustment and recover any incentive compensation award distributed based on the erroneous data or calculation.

The Executive Director will administer the Plan with oversight by the ERCC. The Executive Director may delegate certain administrative responsibilities to other employees at RIO, including the Chief Investment Officer and the Chief Financial Officer/Chief Operating Officer.

Compensation plan participants may present questions related to the Plan to the Executive Director. The Executive Director will work with the appropriate persons to answer such questions. The Executive Director, ERCC, and SIB will have full discretion to conclusively decide all questions or matters relating to the interpretation of the provisions and administration of this Plan.

The SIB must approve any question or matter whose resolution requires a material modification to the Plan, such as a change to the performance standards or maximum award levels. Any such amendments or changes to the Plan may be proposed by the Executive Director or the ERCC but must be recommended by the ERCC and approved by the SIB.

## **Eligibility**

Positions that are eligible for incentive compensation are full-time equivalent investment and fiscal operations positions necessary for the management of the investment of funds under the control of the state investment board as set forth in this plan. Any temporary employment or project positions

are not eligible. Plan participation is determined based on employment status and the Executive Director's assessment of the position's impact on RIO's overall investment performance. Participants must have worked in a covered position at least three full consecutive calendar months during the year to be eligible for incentive compensation under the Plan, and incentive compensation will be paid on a pro-rata basis if not employed the entire fiscal year. The Executive Director will confirm any new positions that will be eligible under the Plan during the next fiscal year.

Employment at RIO in good standing on the day of payment is a pre-requisite for receiving any incentive compensation payment, except in the case of retirement, disability, death or otherwise as provided below. For purposes of this Plan, "employment in good standing" means (a) the Participant's performance is rated above "Developing" in the Participant's most recent performance review, (b) the Participant is not on a performance improvement plan.

### *Eligibility upon Separation*

Generally, a Participant must be employed by RIO as of the date the incentive compensation is paid out in order to be eligible to receive the payment. In the case of disability or death occurring during the fiscal year, any Board-approved incentive compensation amount may be paid to the Participant, the amount to be determined by the Executive Director, subject to approval by the SIB, based on the time worked during the fiscal year and subject to the Participant's termination meeting the qualifications in the next paragraph, if not employed as of the date of payment. These payments will be made at the same time as any other incentive compensation award. No incentive compensation will be awarded if the Participant was employed for less than three consecutive months during the fiscal year in which the disability or death occurred.

If a Participant terminated employment prior to payment of an award, the full amount of the incentive compensation award will be paid to the Participant (or beneficiary in the case of death) only upon the following conditions:

- If the Participant's separation is due to the Participant's disability.
- If the Participant's separation is due to the Participant's death.
- If the Participant's termination is due to reasons other than the Participant's disability or death, and his/her last day of active employment is prior to the payment date then no incentive compensation award will be payable to the Participant.

### **Plan Concepts/Mechanics**

The Plan's terms and conditions are described in this document. A summary of the Plan's overall mechanics is as follows:

- Prior to or near the beginning of each fiscal year, Participants will be assigned a maximum incentive compensation opportunity, which effective as of the Plan year will be expressed as a percentage of his or her base salary at the beginning of the fiscal year (or the Participant's start date if employed after the start of the fiscal year). Maximum incentive compensation opportunities will vary by position based on differing levels of accountability and responsibility.
- Maximum incentive compensation opportunities will be weighted or allocated to specific quantitative and discretionary Plan components. Several Plan

- components are based on Value Added. Value Added (VA) means the weighted average of outperformance of funds as described within the plan.
- After year-end, depending on performance, awards will be determined for each stand-alone Plan component.
  - Notwithstanding any other provision in this Plan and regardless of any incentive compensation award calculations hereunder, no incentive compensation award shall be made unless and until approved by the SIB, in its sole discretion. The SIB may award, adjust (up or down), modify or deny any incentive compensation amounts calculated pursuant to the Plan. All incentive compensation awards hereunder are discretionary.

**Step 1: Set Each Participant’s Maximum Incentive Compensation Opportunity**

Prior to or near the beginning of each fiscal year, or the Participant’s start date if employed after the start of the fiscal year, Participants will be assigned a maximum incentive compensation opportunity, which will be expressed as a percentage of his or her base salary. Unless approved by the Executive Director, maximum incentive compensation opportunities will vary by the position held for most of the year (i.e., position held through June 30 for existing employees) and based on differing levels of accountability and responsibility.

Current maximum incentive compensation opportunities are set forth below.

<b>Maximum Incentive Award</b>	<b>Position Title</b>
<b>100%</b>	<b>Chief Investment Officer Executive Director</b>
<b>90%</b>	<b>Deputy Chief Investment Officer</b>
<b>75%</b>	<b>Portfolio Manager (new FTE’s) Chief Risk Officer Senior Investment Officer</b>
<b>60%</b>	<b>Chief Financial Officer/ Chief Operating Officer</b>
<b>50%</b>	<b>Investment Officer Risk Officer Accounting Manager</b>
<b>25%</b>	<b>Sr. Investment Accountant Investment Accountant</b>

**Step 2: Calculate the Maximum Incentive Compensation Opportunity for the Plan**

The maximum incentive compensation opportunity for the entire Plan will be calculated by aggregating the maximum incentive compensation opportunities for each Participant.



### Step 3: Allocate each Participant’s Maximum Incentive Compensation Opportunity to Performance Components

Each Participant’s maximum incentive compensation opportunity will be weighted or allocated among standalone quantitative and qualitative performance components.

All Roles		
Weight	Performance Component	Allocation Method
80%	Fund VA -3-year rolling	Minimum: (10%) $\geq$ 1 bp Maximum: (100%) 50 bps
20%	Individual Goals	Discretionary

Any proposed changes to incentive compensation weightings will be reviewed and approved by the Executive Director and the ERCC, and approved by the SIB, prior to the beginning of each fiscal year.

### Step 4: Calculate the Performance Components

#### VA Performance Components

The Plan’s quantitative components focus on weighted average of the Legacy Fund, PERS pension fund, TFFR fund, and the WSI fund actual, relative investment performance at Client Fund level compared with SIB-approved benchmarks. Client fund performance is measured on a net of all basis (i.e., net of all direct and indirect costs). Asset Class and Team performance is measured net of direct costs.

The SIB approves an Incentive Compensation Metric (ICM) performance verified by the SIB’s independent Benchmark and Hurdle Rate consultant. The Incentive Compensation Metric represents the amount of outperformance of the applicable benchmark necessary to earn the full incentive compensation opportunity. Performance-award scales are derived from the ICM and define the linkage between RIO’s actual, relative, net investment performance and a corresponding percentage of the maximum incentive compensation opportunity that is earned.

Prior to or near the beginning of each performance year, any requested changes to the ICM(s) or performance-award scales must be submitted, in writing, by the Executive Director to the ERCC and from the ERCC to the SIB for review and approval, and to the Hurdle Rate and Benchmark Consultant for review and verification. There will be a comprehensive review of the ICM(s) up to every three to five years at the discretion of the SIB.

Under RIO Plan:

The percentage of the maximum *quantitative* incentive compensation opportunity earned:

- Equals 0% when performance is at or below benchmark.

- Equals 10% when net performance exceeds the benchmark by one full basis point.
- Increases pro rata, from 10% to 100%, for net performance that is between one full basis point above the benchmark, and the ICM.
- Equals 100% when net performance equals or exceeds the benchmark by the full ICM<sup>1</sup>

### *Portfolio VA*

In the first three years of the Plan, the first year Fund VA will be the one year weighted average Fund VA, the second year of the plan will be the two-year compound Fund VA and the third year will be the three-year compound average of the weighted average of the Legacy Fund, the PERS pension fund, TFFR fund, and WSI fund actual, relative investment performance at Client Fund level compared with SIB-approved benchmarks. Thereafter, the weighted average Fund VA applied to all participants is a rolling three-year average of the weighted average of the Legacy Fund, the PERS pension fund, TFFR fund, and WSI fund actual, relative investment performance at Client Fund level compared with SIB-approved benchmarks.

For Participants that join RIO on or after the beginning of the fiscal year, the weighted average Fund VA applied to all participants will be used. The payout will be made pro-rata based on the percentage of plan year time employed that starts with the beginning of the fiscal year on July 1.

For Participants that joined RIO prior to the plan year starting with the beginning of the fiscal year but have been employed for fewer than three years as of the start of the fiscal year, the weighted average Fund VA applied to all participants will be used.

#### *Individual Goals Component*

The Individual Goals component is set by the manager of the Participant as part of the performance evaluation process. The final performance evaluation of each Participant is approved by the Executive Director. In addition, such Participants will be evaluated on leadership/behavioral and organizational competence factors. Some factors that may be considered include training and mentoring of staff, contribution to organizational strategic planning, and participation in projects or initiatives to update business and/or analytical processes and tools and the associated technology applications. The Executive Director will determine the amounts awarded for Individual Goals in consultation with managers.

### **Step 5: Allocate Discretionary Components Among Relevant Participants**

Quantitative components are allocated to Participants directly without modification. Discretionary components for Individual Goals components, will be allocated by the Executive Director.

### **Step 6: Present Final Award Recommendations to the Board of Trustees**

The Executive Director's award recommendations will be made to the ERCC. The ERCC will make a recommendation regarding the incentive compensation awards to the SIB for approval. For all Participants, an incentive compensation award is contingent on approval of the award by the SIB, in its sole discretion.

## **Step 7: Payment of Awards**

Incentive compensation awards will be determined and authorized as soon as practical following the close of each fiscal year, with a target of within the first four months of each fiscal year for the previous fiscal year.

RIO shall be entitled to withhold or deduct, as applicable, from the amount of any payment under this Plan or any other compensation due to the Participant, all federal, state, city and other taxes and all other amounts, as applicable.

<sup>1</sup> ICMs are intended to reflect levels of net performance that are considered top quartile, based upon expected levels of risk and return.

**Policy Implemented:** May 17, 2024.

**ATTACHMENT D**  
**COST PROPOSAL TEMPLATE**

Search 1 – Executive Director:

The cost proposal must identify:

- 1) The fixed fee for the proposed services (e.g. fixed cost or percentage of base salary).
- 2) The total estimated expenses based upon the proposed recruitment strategy, including a detailed description of those expenses.

If fixed fee based upon percentage of base salary is proposed, that fee will be evaluated using a salary of \$235,000. The actual fee paid to the Contractor will be based upon the final base salary accepted by the successful candidate.

Search 2 – Chief Financial and Operating Officer:

The cost proposal must identify:

- 1) The fixed fee for the proposed services (e.g. fixed cost\*).
- 2) The total estimated expenses based upon the proposed recruitment strategy, including a detailed description of those expenses.

\*Since the scope of this search is reduced, STATE prefers a fixed cost unconnected to the position's base salary.

The total estimated expenses will establish the maximum amount for expenses in the Contract. The State will not reimburse the Contractor for expenses exceeding that amount unless the Contractor obtains prior written approval from the State in an amendment to the Contract.

All costs associated with the contract must be stated in U.S. currency. Any commodities being imported must be identified, and the price must include any applicable customs, brokerage agency fees, and duties.

Offerors should describe any discount terms for prompt payment. Discounts for prompt payment will not be considered in evaluating cost.

**ATTACHMENT E  
TECHNICAL PROPOSAL EVALUATION WORKSHEET**

Proposals that are determined to be responsive to the requirements of the RFP will be evaluated by the Evaluation Committee using the evaluation criteria stated in the RFP. For assistance with RFP evaluations, contact the State Procurement Office at [infospo@nd.gov](mailto:infospo@nd.gov) or 701-328-2740.

- If a group evaluation is conducted, the Evaluation Committee will produce one worksheet that summarizes the comments and scores. If individual scores are being compiled, each member of the Evaluation Committee will prepare an evaluation worksheet with their comments and scores.
- Evaluation Committee members must read the Request for Proposal and have a clear understanding of the requirements and evaluation criteria before attempting to evaluate proposals.
- Evaluators should read all proposals twice. First, read all proposals for a general understanding without scoring. Next, read proposals with the intent to complete the evaluation worksheet which includes taking notes and documenting any questions/clarification needed.
- Each evaluation criterion is assigned a specific number of points. The questions under each evaluation criterion help Evaluators measure the quality of the Offeror's response. Do not assign points to individual questions, instead, award a total score for each evaluation criterion.
- Evaluators will assign an initial score for each evaluation criterion and provide comments which explain their scores.
- Evaluation documents become an open record upon award.

**RATING SCALE FOR TECHNICAL PROPOSAL SCORING**

The rating scale provided is intended to help Evaluators perform evaluations. Evaluators are exercising independent judgement so variation in scoring is normal. However, the Procurement Officer may question scoring that appears to be unsupported. Evaluators may assign any value for a given evaluation area from 0 to the maximum number of points allowed per evaluation criterion. A zero value typically constitutes no response or an inability of the Offeror to meet the criteria. In contrast, the maximum value should constitute a high standard of meeting the criteria. For example: "Experience and Qualifications" is an evaluation area weighted at 25% of the total possible points on a 100 Point Scale, so any value between 0 and 25 points can be awarded. An example of the rating scale is below:

<b>Experience and Qualifications Rating Scale (25 Point Maximum)</b>	
<b>Point Value</b>	<b>Explanation</b>
<i>0-5</i>	Poor. Not addressed or response of no value
<i>6-10</i>	Fair. Limited applicability
<i>11-15</i>	Good. Some applicability
<i>16-20</i>	Very Good. Substantial applicability
<i>21-25</i>	Excellent. Total applicability

**COST PROPOSAL**

Cost proposals are normally scored by the Procurement Officer or selected evaluators, and cost proposals are given to the Evaluation Committee after technical proposals have been evaluated. Prompt payment discounts are not considered in evaluating cost.

**ADJUSTMENT OF INITIAL EVALUATION SCORES**

After the initial scoring, the Evaluation Committee should meet to discuss proposals and identify areas where clarification or more information is needed. Evaluation scores may be adjusted as a result of discussions with offerors, clarifications, demonstrations, presentations, reference check results, Best and Final Offers, and further due diligence within the evaluation process.

## TECHNICAL PROPOSAL EVALUATION WORKSHEET

Offeror Name \_\_\_\_\_

RFP Title/Number: Executive Recruitment Services, RFP # \_\_\_\_\_

Evaluator Names \_\_\_\_\_

**Evaluator Certification.** I have reviewed the Request for Proposal Evaluators Guide, and I certify that neither I nor my immediate family members have a conflict of interest with regard to this offeror, in accordance with [N.D.A.C. § 4-12-04-04](#).

Evaluator Signatures \_\_\_\_\_ Date \_\_\_\_\_

**THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS 100**

SCOPE OF WORK STRATEGY RATING SCALE (40 Point Maximum)	
Point Value	Explanation
0 – 8	None. Not addressed or response of no value
9 – 16	Fair. Limited applicability
17 – 24	Good. Some applicability
25 – 32	Very Good. Substantial applicability
33 – 40	Excellent. Total applicability

**IMPORTANT.** Proposals will be evaluated against the questions set out below. Do not assign points to individual questions, instead, award a total score for each evaluation criterion. Evaluators must provide comments to support scoring.

How well has the Offeror followed the proposal preparation instructions? Does the proposal contain all the requested information?

**EVALUATOR NOTES**

Has the Offeror identified any additional directives that apply to the contract?

**EVALUATOR NOTES**

How well has the Offeror described their strategy for accomplishing the scope of work requirements? What are the strengths of the proposed strategy?

**EVALUATOR NOTES**

Are there aspects of the proposed Scope of Work strategy of concern or that requires clarification or further information?

**EVALUATOR NOTES**

How well does the proposed timeline demonstrate the offeror's ability to meet the contract schedule and deliverables?

**EVALUATOR NOTES**

How well does the proposal address where the work will be performed and any travel?

**EVALUATOR NOTES**

How well has offeror described any expectations for State resources?

**EVALUATOR NOTES**

How well has the offeror addressed risk management? Did they identify any potential risks, issues or problems?

**EVALUATOR NOTES**

Has the offeror described their project management to accomplish the work on time, within budget, and meet quantity and quality standards?

**EVALUATOR NOTES**

**INITIAL EVALUATION SCORE FOR SCOPE OF WORK STRATEGY: \_\_\_\_\_**

Additional/overall comments related to the offeror’s proposed strategy for accomplishing the work.

**EVALUATOR NOTES**

<b>EXPERIENCE AND QUALIFICATIONS RATING SCALE (40 Point Maximum)</b>	
<b>Point Value</b>	<b>Explanation</b>
0 – 8	None. Not addressed or response of no value
9 – 16	Fair. Limited applicability
17 – 24	Good. Some applicability
25 – 32	Very Good. Substantial applicability
33 – 40	Excellent. Total applicability

**IMPORTANT. Proposals will be evaluated against the questions set out below. Do not assign points to individual questions, instead, award a total score for each evaluation criterion. Comments to support scoring are required, and will be helpful when performing offeror evaluation debriefs after award.**

**MINIMUM EXPERIENCE OR QUALIFICATIONS**

If the RFP required a minimum amount of experience or qualifications, has the offeror provided information to demonstrate meeting this requirements? Does the offeror exceed the minimum experience or qualifications?

**EVALUATOR NOTES**

**EXPERIENCE AND QUALIFICATIONS OF THE FIRM**

Has the offeror provided historical information to demonstrate the firm is well established in this field?

**EVALUATOR NOTES**

How extensive is the firm’s experience in this type of work? How well does the information about similar projects demonstrate the firm’s experience work related to this RFP?

**EVALUATOR NOTES**

If the offeror provided letters of reference or the Evaluation Committee contacted the customer contacts, what information did the offeror's customers provide related to the offeror's past performance?

**EVALUATOR NOTES**

**EXPERIENCE AND QUALIFICATIONS OF THE PROJECT TEAM**

Has the offeror provided information about the organization of the project team and proposed work project team members will perform, and estimated hours? Does the proposed project team and work breakdown seem appropriate to accomplish the requirements of the RFP?

**EVALUATOR NOTES**

Are resumes complete and do they demonstrate education and experience that would be desirable for individuals engaged in the work the RFP requires?

**EVALUATOR NOTES**

How extensive is the experience of the project team members on similar projects?

**EVALUATOR NOTES**

If a subcontractor will perform work on the project or joint venture is proposed, has the offeror provided the requested information? How extensive is the experience and qualifications of the subcontractor or other party of the joint venture?

**EVALUATOR NOTES**

**REFERENCE CHECK RESULTS**

If references were required, did the references provide information to verify the satisfactory performance of the vendor?

**EVALUATOR NOTES**

Did references identify any areas of concern?

**EVALUATOR NOTES**

Did references identify any particular strengths of the vendor?

**EVALUATOR NOTES**

**INITIAL EVALUATION SCORE FOR EXPERIENCE AND QUALIFICATIONS:** \_\_\_\_\_

Additional/overall comments related to the offeror's experience and qualifications.

**EVALUATOR NOTES**



## ATTACHMENT F CONTRACT

### **OFFEROR INSTRUCTIONS**

Offeror shall review the STATE's Contract.

The proposal must include indicate whether or not the offeror accepts the terms and conditions in the STATE's Contract.

An offeror may state that they accept the STATE's Contract as written.

An offeror may state any objections or propose changes or additions to the STATE's Contract. Describe the changes to the Contract being proposed or provide a red-line of the STATE's Contract. Offerors are not to submit their own contract or standard terms and conditions with their proposals. Offeror should address the specific language in the attached contract and submit any proposed changes.

North Dakota procurement statutes, rules, and policies allow some negotiation of the terms and conditions. No changes to the terms and conditions will be permitted without prior written approval from the STATE.

### **EXECUTIVE RECRUITMENT SERVICES CONTRACT**

#### **1. PARTIES**

The parties to this contract (Contract) are the State of North Dakota, acting through its Retirement and Investment Office (STATE), and *Name of Business a type of business (e.g. Delaware corporation or privately held company)* having its principal place of business at *principal business address* (CONTRACTOR);

#### **2. SCOPE OF WORK**

CONTRACTOR, in exchange for the compensation paid by STATE under this Contract, shall provide the following executive recruitment services to fill the position of Executive Director (ED) and assist with filling the position of Chief Financial and Operating Officer (CFO/COO):

##### **Search 1 – Executive Director**

1. Assistance in identifying desired skills and qualifications;
2. Assistance with preparation of a search timeline;
3. Assistance with review of the current job description and recommendations for amendments as appropriate;
4. Identification and recruitment of nationwide candidates;
5. Candidate appraisals, reference checks, mining of public domain information on the Internet, interviews and preparation of experience summaries, cultural fit assessment, and in-depth evaluations;
6. Development and implementation of a process to narrow the candidate list;
7. Assist in the development of the interview questions used by the SIB executive search committee with the narrowed candidate list;
8. Assistance with arrangements for SIB executive search committee interviews;
9. Responsible for finalists' background checks, including;
  - a. Credit Bureau Checks
  - b. Assist the State in conducting Criminal Background Checks in accordance with North Dakota Century Code (N.D.C.C.) § 12-60-24
10. Assistance with arrangements for and interviews by the SIB;
11. Assistance negotiating a compensation package and employment terms and other customary or requested assistance in connection with the search;

12. Provide SIB with progress reports.

### **Employment Guarantee**

CONTRACTOR must guarantee continued employment of the individual hired for a minimum of one year, preferably two years. If the individual leaves prior to the employment guarantee timeframe from the date of hire, the CONTRACTOR must reengage in one equivalent replacement search on an expenses-only basis (no additional fee), unless the candidate's departure has been caused by significant changes in reporting structure or responsibility. STATE will not reimburse the contractor for expenses exceeding the maximum specified amount unless the contractor obtains prior written approval from the STATE in an amendment to the contract.

### **Search 2 – Chief Financial and Operating Officer**

CONTRACTOR will assist with the search and development of a narrowed candidate list including the items described here:

1. Assistance in identifying desired skills and qualifications;
2. Assistance with preparation of a search timeline;
3. Assistance with review of the current job description and recommendations for amendments as appropriate;
4. Identification and recruitment of nationwide candidates;
5. Candidate appraisals, reference checks, mining of public domain information on the Internet, interviews and preparation of experience summaries, cultural fit assessment, and in-depth evaluations;
6. Development and implementation of a process to narrow the candidate list;
7. Assist in the development of the interview questions to be used by RIO staff with the narrowed candidate list;
8. Responsible for finalists' background checks, including;
  - a. Credit Bureau Checks
  - b. Assist the State in conducting Criminal Background Checks in accordance with N.D.C.C. § 12-60-24
9. Provide RIO staff with progress reports.

### **3. COMPENSATION-PAYMENTS**

#### **a. Contractual Amount**

STATE shall pay for the accepted services provided by CONTRACTOR under this Contract an amount not to exceed **[Amount]** (Contractual Amount).

The Contractual Amount is firm for the duration of this Contract and constitutes the entire compensation due CONTRACTOR for performance of its obligations under this Contract regardless of the difficulty, materials or equipment required, including fees, licenses, overhead, profit and all other direct and indirect costs incurred by CONTRACTOR, except as provided by an amendment to this Contract.

#### **b. Payment**

- 1) Payment made in accordance with this Compensation section shall constitute payment in full for the services and work performed and the deliverables and work(s) provided under this Contract and CONTRACTOR shall not receive any additional compensation hereunder.
- 2) STATE shall make payment under this Contract within forty-five (45) calendar days after receipt of a correct invoice.
- 3) Payment of an invoice by STATE will not prejudice STATE's right to object to or question that or any other invoice or matter in relation thereto. CONTRACTOR's invoice will be

subject to reduction for amounts included in any invoice or payment made which are determined by STATE, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute allowable costs. At STATE's sole discretion, all payments shall be subject to reduction for amounts equal to prior overpayments to CONTRACTOR.

- 4) For any amounts that are or will become due and payable to STATE by CONTRACTOR, STATE reserves the right to deduct the amount owed from payments that are or will become due and payable to CONTRACTOR under this Contract.

**c. Travel**

STATE shall reimburse CONTRACTOR for expenses related to travel at amounts not to exceed those outlined below:

- 1) **Lodging:** Reimbursement shall not exceed the then current, published GSA rate for the travel location. Copies of receipts are required for lodging reimbursement. STATE shall not reimburse for incidental and miscellaneous expenses charged to the room, including: alcohol, telephone charges, or entertainment (e.g., movies).
- 2) **Transportation.** Air travel shall be reimbursed by STATE at the actual cost of air fare for coach class travel only. CONTRACTOR shall make air travel arrangements at least fourteen (14) days in advance whenever possible. Reimbursement for rented, chartered, or contracted vehicle transportation shall be limited to reasonable rates as determined by STATE.
- 3) **Meals:** Meals shall be paid on a per diem basis for each day of travel at then current, published GSA per diem rate for the travel location. Per diem for the first and last day of travel shall be paid at seventy five percent (75%) of the GSA per diem rate. Requests for per diem payments must include the start and end dates of travel, the location where the services are performed, and the allowable per diem amount for each trip on the billing/invoice.

Payment for any travel expenses that exceed the travel budget as agreed upon by the Parties must be approved by STATE.

**d. Prepayment**

STATE will not make any advance payments before performance or delivery by CONTRACTOR under this Contract.

**e. Payment of Taxes by STATE**

STATE is not responsible for and will not pay local, state, or federal taxes. STATE sales tax exemption number is E-2001. STATE will furnish certificates of exemption upon request by the CONTRACTOR.

**f. Taxpayer ID**

CONTRACTOR'S federal employer ID number is: *[Insert FEIN]*.

**g. Purchasing Card**

STATE may make payment using a government credit card. CONTRACTOR will accept a government credit card without passing the processing fees for the government credit card back to STATE.

#### 4. TERM OF CONTRACT

This Contract term (Term or Initial Term) begins on its Effective Date and ends twenty-four months after the start date of the successful Executive Director candidate.

**a. No Automatic Renewal**

This Contract will not automatically renew.

**b. Extension Option**

STATE reserves the right to extend this Contract for an additional period, not to exceed twelve months, beyond the current termination date of this Contract.

#### 5. TERMINATION

**a. Termination for Convenience or by Mutual Agreement**

This Contract may be terminated by STATE upon thirty (30) days' written notice to CONTRACTOR. This Contract may be terminated by mutual consent of both Parties executed in writing.

**b. Early Termination in the Public Interest**

STATE is entering this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly, Agencies and Courts. If this Contract ceases to further the public policy of the State of North Dakota, STATE, in its sole discretion, by written notice to CONTRACTOR, may terminate this Contract in whole or in part.

**c. Termination for Lack of Funding or Authority**

STATE by written notice to CONTRACTOR, may terminate the whole or any part of this Contract under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services or goods in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services or goods are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

**d. Termination for Cause**

STATE may terminate this Contract effective upon delivery of written notice to CONTRACTOR, or any later date stated in the notice:

- 1) If CONTRACTOR fails to provide services or goods required by this Contract within the time specified or any extension agreed to in writing by STATE; or

- 2) If CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of STATE provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## 6. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If CONTRACTOR is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then STATE may seek all available remedies, up to and including termination of this Contract pursuant to its Termination Section, and STATE shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

## 7. INDEMNIFICATION

CONTRACTOR agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers, and employees (STATE), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the STATE's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by CONTRACTOR to the STATE under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary. Any attorney appointed to represent the STATE must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to reimburse the STATE for all costs, expenses and attorneys' fees incurred if the STATE prevails in an action against CONTRACTOR in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

## 8. INSURANCE

CONTRACTOR shall provide certificate of insurance and any endorsements to STATE electronically to:

Name: [INSERT NAME](#)

Email Address: [INSERT EMAIL ADDRESS \(email should be an agency contact or agency info account\)](#)

Email Subject Line: Certificate of Insurance - [INSERT CONTRACT NUMBER/NAME](#)

CONTRACTOR shall secure and keep in force during the term of this agreement and CONTRACTOR shall require all subcontractors, prior to commencement of an agreement between CONTRACTOR and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.
- 3) Workers' compensation coverage meeting all statutory requirements. The policy shall provide coverage for all STATES of operation that apply to the performance of this contract.
- 4) Employer's liability or "stop gap" insurance of not less than \$2,000,000 as an endorsement on the workers compensation or commercial general liability insurance.
- 5) Professional errors and omissions with minimum limits of \$1,000,000 per claim and in the aggregate, CONTRACTOR shall continuously maintain such coverage during the contact period and for three years thereafter. In the event of a change or cancellation of coverage, CONTRACTOR shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the CONTRACTOR. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the STATE. The policies shall be in form and terms approved by the STATE.
- 2) The duty to defend, indemnify, and hold harmless the STATE under this agreement shall not be limited by the insurance required in this agreement.
- 3) The STATE of North Dakota and its agencies, officers, and employees (STATE) shall be endorsed on the commercial general liability policy on a primary and noncontributory basis, including any excess policies (to the extent applicable), as additional insured. The STATE shall have all the benefits, rights, and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the CONTRACTOR.
- 4) A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the STATE.  
The CONTRACTOR shall provide a certificate of insurance prior to commencement of this agreement and any required endorsements as soon as practicable electronically to contact named above.  
Failure to provide insurance as required in this agreement is a material breach of contract entitling the STATE to terminate this agreement immediately.
- 5) CONTRACTOR shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. CONTRACTOR shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration.

## 9. WORKS FOR HIRE

CONTRACTOR acknowledges that all work(s) under this Contract is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to STATE all rights and interests CONTRACTOR may have in the work(s) it prepares under this Contract, including any right to derivative use of the work(s). All software and related materials developed by CONTRACTOR in performance of this Contract for STATE shall be the sole property of STATE, and CONTRACTOR hereby assigns and transfers all its right, title, and interest therein to STATE. CONTRACTOR shall execute all necessary documents to enable STATE to protect STATE's intellectual property rights under this section.

**10. WORK PRODUCT**

All work product, equipment or materials created for STATE or purchased by STATE under this Contract belong to STATE and must be immediately delivered to STATE at STATE's request upon termination of this Contract.

**11. NOTICE**

All notices or other communications required under this Contract must be given by email, registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses:

STATE	CONTRACTOR
Sara Seiler	<i>Name</i>
Supervisor of Internal Audit	<i>Title</i>
PO Box 7100	<i>Address</i>
Bismarck, ND 58507-7100	<i>City, State, Zip</i>
sseiler@nd.gov	<i>Email</i>

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

**12. CONFIDENTIALITY**

CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, [N.D.C.C. CH. 44-04](#). The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the Term of this Contract.

**13. COMPLIANCE WITH PUBLIC RECORDS LAWS**

Under the North Dakota public records law and subject to the Confidentiality clause of this Contract, certain records may be open to the public upon request.

Public records may include: (a) records STATE receives from CONTRACTOR under this Contract, (b) records obtained by either Party under this Contract, and (c) records generated by either Party under this Contract.

CONTRACTOR agrees to contact STATE immediately upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to such request.

**14. INDEPENDENT ENTITY**

CONTRACTOR is an independent entity under this Contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal

Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR's activities and responsibilities under this Contract, except to the extent specified in this Contract.

### **15. ASSIGNMENT AND SUBCONTRACTS**

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE's express written consent, provided, however, that CONTRACTOR may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom STATE is prohibited from conducting business, STATE shall have the right to terminate in accordance with the Termination for Cause section of this Contract.

CONTRACTOR may enter subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor with whom CONTRACTOR contracts. CONTRACTOR does not have authority to contract for or incur obligations on behalf of STATE.

### **16. SPOILIATION – PRESERVATION OF EVIDENCE**

CONTRACTOR shall promptly notify STATE of all potential claims that arise or result from this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect such evidence, including the scene of an accident.

### **17. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS**

This Contract, including the following documents, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both Parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Contract, the documents must control in this order of precedence:

- a. The terms of this Contract as may be amended;
- b. STATE's Solicitation Amendment #1 to Request for Proposal ("RFP") number \_\_\_\_\_ dated \_\_\_\_\_;
- c. STATE's Request for Proposal ("RFP") number \_\_\_\_\_, dated \_\_\_\_\_;
- d. CONTRACTOR's proposal dated \_\_\_\_\_ in response to RFP number \_\_\_\_\_.
- e. All terms and conditions contained in any automated end-user agreements (e.g., click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Contract.

### **18. SEVERABILITY**

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this Contract did not contain that term.



## **19. APPLICABLE LAW AND VENUE**

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

## **20. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL**

By entering this Contract, STATE does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

## **21. ATTORNEY FEES**

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing Party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

## **22. NONDISCRIMINATION AND COMPLIANCE WITH LAWS**

CONTRACTOR agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums.

CONTRACTOR shall have and keep current all licenses and permits required by law during the Term of this Contract.

CONTRACTOR is prohibited from boycotting Israel for the duration of this Contract. (See N.D.C.C § 54-44.4-15.) CONTRACTOR represents that it does not and will not engage in a boycotting Israel during the term of this Contract. If STATE receives evidence that CONTRACTOR boycotts Israel, STATE shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if CONTRACTOR has fewer than ten (10) full-time employees.

CONTRACTOR's failure to comply with this section may be deemed a material breach by CONTRACTOR entitling STATE to terminate in accordance with the Termination for Cause section of this Contract.

## **23. STATE AUDIT**

Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. CONTRACTOR shall maintain these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to CONTRACTOR prior to conducting examination.

## 24. COUNTERPARTS

This Contract may be executed in multiple, identical counterparts, each of which is be deemed an original, and all of which taken together shall constitute one and the same contract.

## 25. EFFECTIVENESS OF CONTRACT

This Contract is not effective until fully executed by both Parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the Parties shall be deemed the Effective Date.

<b>CONTRACTOR</b>	<b>STATE OF NORTH DAKOTA</b>
<insert business>	Acting through its Retirement and Investment Office
BY: <Signature>	BY: <Signature>
<Printed Name>	<Printed Name>
<Title>	<Title>
Date:	Date: