



OFFICE OF THE
STATE AUDITOR

October 23, 2024

Dear Firm:

Attached is a request for proposal to assist the Office of the State Auditor (OSA) to perform a special project. The OSA seeks available firm personnel to work under the direct supervision of OSA personnel. OSA anticipates contracting with one or more firms to provide the required staffing. The firm does not need to perform any reviews of work performed or issue any reports. Nor does the firm need to provide any resources other than the contracted staff personnel.

Your proposal must be submitted to Jason Allen, Audit Director, Office of the State Auditor, **no later than 12:00 p.m. MDT on October 30, 2024.**

To be considered in the solicitation process, the proposing firm must meet the following minimum criteria:

- The available firm personnel must be available to work in-person and onsite at a location determined by the OSA in the Salt Lake Metro area for the time and level of effort required by the OSA.
- The availability of time and effort to meet the deadline is critical. The OSA desires to complete this engagement by December 20, 2024 or as soon as reasonably possible based on available resources.

The OSA does not anticipate a lengthy proposal to this request. **A response, perhaps as short as a page, may be adequate to address the proposal requirements outlined below.**

Sincerely,

Jason Allen, CPA, CFE
Audit Director
801-808-0716
jasonallen@utah.gov

Purpose of Request for Proposal

The purpose of this request for proposal (RFP) is to enter into contracts with one or more qualified firms (Offeror) to assist the Office of the State Auditor (OSA) to perform a special project. This is a level-of-effort project paying on an hourly, per staff basis.

This RFP is designed to provide interested Offerors with sufficient basic information to submit proposals meeting minimum requirements.

Background

Personnel will perform quality control-type work, reviewing documentation for accuracy, reporting exceptions.

Submitting Your Proposal

Proposals must be received by the submission deadline of October 30, 2024, no later than 12:00 p.m. MDT.

Submit proposal electronically in PDF format to: jasonallen@utah.gov.

Selection of the Contractor(s) is anticipated to be made by November 1, 2024. Announcement of the awarded contract(s) will be posted to the OSA website at auditor.utah.gov/about-us/contracting/.

Length of Contract

The level-of-effort contract resulting from this RFP will cover the cost of available firm personnel working directly for the OSA as outlined in the proposals submitted, primarily during November and part of December 2024.

Detailed Scope of Work

The OSA is performing a quality control review of documentation. The OSA estimates this engagement will require at least 10 full-time equivalent reviewers available during November and part of December to complete the engagement by December 20, 2024. This engagement does not require the same individuals to be available for this entire period and does not require all individuals to come from the same firm. OSA anticipates that multiple firms may be required to provide the staff needed for this engagement.

The Contractor shall provide available staff to work under the direct supervision of OSA personnel overseeing this engagement. The duties of the staff needed to perform this special project include:

1. Review documents.

2. Enter noted exceptions into a computer provided by OSA.
3. Reviewers assigned to work with OSA for this quality control review should be at least staff-level auditors, paralegal, or law clerk employees.
4. Each reviewer must sign a nondisclosure agreement.

Proposal Requirements

Interested Offerors should include the following information in their proposal to perform the quality control review work described above.

A. Available Staff

1. Number of available staff.
2. On a per staff member basis:
 - a. Job title and length of time each available staff worked at firm.
 - b. Dates and hours available during November and part of December. Staff may begin work on November 4, 2024. This project would benefit from consistency in staffing, each working a full day (8:00 a.m. to 5:00 p.m. for at least 8 hours) and a minimum of 5 days during the period. A longer commitment and consecutive availability for each assigned staff member is preferred.
 - c. Hourly billing rates. Include the purpose and amount of any anticipated out-of-pocket expenses.

B. Offeror's Qualifications

1. Certification that neither it nor any proposed staff have:
 - a. Any affiliations with person(s) recognized by law enforcement officers as being habitual criminals or members of criminal cartels.
 - b. Any convictions or judgments (civil or criminal) for fraud, deceit, or crimes involving moral turpitude.
 - c. A petition under the Bankruptcy Act, or any State insolvency law, filed by or against any of the named.
 - d. Any order, judgment, or decree of any federal or state authority barring, suspending, or otherwise limiting the right or license of the Offeror to engage in any business practice or activity.
2. This engagement does not require assigned staff to meet the independence requirements of the AICPA *Code of Professional Conduct* or the GAO *Government Auditing Standards*.

C. Terms and Conditions

An Offeror’s concerns, if any, with the terms and conditions outlined in this proposal, including the State of Utah Standard Terms and Conditions for Services (Attachment A), must be disclosed in the proposal. An Offeror must identify the terms and conditions that causes concern and provide an explanation for the concern and a proposed modification for the terms and conditions for consideration. Such requests may not be submitted by reference to an Offeror’s website or URL.

Exceptions or additions submitted after the date and time for receipt of proposals will not be considered unless there is only one Offeror that responds to the RFP, the exceptions or additions have been approved by the Attorney General’s Office, and it is determined by the OSA that it is not beneficial to the OSA to republish the solicitation. The OSA may refuse to negotiate exceptions or additions:

- (a) That are determined to be excessive;
- (b) That are inconsistent with similar contract of the OSA;
- (c) To warranties, insurance, or indemnification provisions that are necessary to protect the procurement unit after consultation with the Attorney General’s Office;
- (d) Where the solicitation specifically prohibits exceptions or additions; or
- (e) That are not in the best interest of the OSA.

If, in the negotiations of exceptions or additions with an Offeror, an agreement is not reached after a reasonable amount of time as determined by the OSA, the negotiations may be terminated and a contract not awarded to that Offeror and the OSA may move to the next eligible Offeror.

Contractual Arrangements

A. Compensation for Services

1. Billings for services are to be sent directly to the OSA.
2. Payment for services shall be made by the OSA upon completion of the level of effort specified for this engagement and receipt of a final billing statement of detailing actual hours and actual out-of-pocket-costs incurred for each staff assigned to this contract.

B. Significant Contract Provisions

As part of the contract to be awarded, the Contractor:

1. May not assign, subcontract, or delegate any portion of this quality control review work without prior written authorization by the OSA.

2. Under no circumstances will be allowed to retain any data.

Evaluation of Proposals

Best and final offers may be allowed as provided in *Utah Code* 63G-6a-707.5 from responsible Offerors who submit responsive proposals that meet the minimum qualifications, evaluation criteria, or applicable score thresholds identified in the RFP.

A committee will evaluate proposals against the following weighted criteria:

% OF SCORING WEIGHT	EVALUATION CRITERIA
100%	<u>Cost of the proposed level of effort provided mandatory qualifications met</u>

Right to Reject – The OSA reserves the right to reject any and all proposals submitted and to request additional information from all proposing firms. Any contract(s) awarded will be made to the firm who, based on evaluation of all responses (applying all criteria and oral interviews if necessary), is determined to be the best to perform the quality control review work. The OSA may reject any proposal with a cost in excess of the fully-burdened cost for the OSA to perform the reviews.

Protected Records

The Offeror acknowledges the Government Records Access and Management Act (GRAMA), *Utah Code* Title 63G, Chapter 2, which include the following as protected records:

- (a) Trade Secrets, as defined in Section 13-24-2;
- (b) Commercial information or non-individual financial information subject to Subsection 63G-2-305(2); and
- (c) Other Protected Records under GRAMA.

Any work papers prepared under this engagement are confidential and property of the OSA, regardless of whether specifically so marked.

Process for Requesting Non-Disclosure: Any Offeror requesting that a record be protected shall include with the proposal or submitted document: (1) a written indication of which provisions of the proposal or submitted document are claimed to be considered for business confidentiality or protected, including trade secrets or other reasons for non-disclosure under GRAMA; and (2) a concise statement of the reasons supporting each claimed provision of business confidentiality or protected record.

Process for Submitting Proposals with Protected Business Confidential Information: If an Offeror submits a proposal that contains information claimed to be business confidential or protected information, the Offeror must submit two separate proposals:

- (a) One redacted version for public release, with all protected business confidential information either blacked-out or removed, clearly marked as “Redacted Version”; and
- (b) One non-redacted version for evaluation purposes clearly marked as “Protected Business Confidential.”

Pricing may not be classified as business confidential and will be considered public information. An entire proposal may not be designated as “PROTECTED,” “CONFIDENTIAL” or “PROPRIETARY” and shall be considered non-responsive unless the Offeror removes the designation.

Questions and Answers

Questions arising subsequent to the issuance of this RFP, that could have a significant impact on the responses to the RFP, should be submitted via email to Jason Allen (jasonallen@utah.gov) referencing OSA Solicitation No. 2024-GOL. Failure to comply with this requirement will result in disqualification of your proposal. The submitted questions and associated answers will be posted on the OSA website, specifically at auditor.utah.gov/about-us/contracting/. All such questions should be received by the questions due date of October 28, 2024 no later than 12 p.m. MDT. Responses to questions submitted by this due date will be posted to the above OSA contracting page by 5 p.m. MDT on October 28, 2024.

Other Information

The individual listed below may be contacted for information.

Office of the State Auditor:

Jason Allen, CPA, CFE

Audit Director

Phone: 801-808-0716

Email: jasonallen@utah.gov

**STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR SERVICES
(with changes by the Office of the State Auditor (OSA) for items specific to this contract)**

This is for a contract for services (including professional services) meaning the furnishing of labor, time, or effort by a contractor.

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a) **"Confidential Information"** means information that is deemed as confidential under applicable state and federal laws, including personal information. The OSA reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - b) **"Contract"** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" may include any purchase orders that result from this Contract.
 - c) **"Contract Signature Page(s)"** means the State of Utah cover page(s) that the OSA and Contractor sign.
 - d) **"Contractor"** means the individual or entity delivering the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, partners, and principals.
 - e) **"Services"** means the furnishing of audit services pursuant to this Contract.
 - f) **"Proposal"** means Contractor's response to the OSA's Solicitation.
 - g) **"Solicitation"** means the documents used by the OSA to obtain Contractor's Proposal.
 - h) **"OSA"** means the Office of the State Auditor identified on the Contract Signature Page(s).
 - i) **"State of Utah"** means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - j) **"Subcontractors"** means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
 - k) **"Work Product"** means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's Subcontractors (either alone or with others) pursuant to this Contract. Work Product shall be considered a work made for hire under federal, state, and local laws; and all interest and title shall be transferred to and owned by the OSA. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any OSA intellectual property, Contractor's intellectual property (that it owned or licensed prior to this Contract) or Third Party intellectual property. It is also understood that all workpapers produced and/or compiled by the Contractor in anticipation of rendering or in support of their audit opinion relating to the financial statements of the Entity to be audited identified in the contract for the fiscal year(s) covered by this contract, inclusive shall not be deemed to be work product and shall remain the sole property of the Contractor.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the OSA to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, and OSA staff, access to all such records.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.

6. **CONFLICT OF INTEREST:** Contractor represents that none of its personnel are officers or employees of the Entity to be audited as identified in the contract, OSA or the State of Utah, unless disclosure has been made to the OSA.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the OSA or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the OSA and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract to the extent caused by any intentional, wrongful act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the OSA. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract and is within the scope/purpose of the original solicitation for which this Contract was derived. The amendment will be attached and made part of this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify the OSA within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and is subject to the remedies listed below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the OSA, upon thirty (30) days written termination notice being given to the Contractor. The OSA and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Services ordered prior to date of termination. Contractor may also terminate this agreement as set forth in the Letters of Engagement.
Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the OSA or the State of Utah is limited to full payment for all Services properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract. In no event shall the OSA be liable to the Contractor for compensation for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the OSA's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the OSA for any damages or claims arising under this Contract.
13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the OSA, if the OSA reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the OSA's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.
If a written notice is delivered under this section, the OSA will reimburse Contractor for the Services properly ordered until the effective date of said notice. The OSA will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.
14. **SUSPENSION OF WORK:** Should circumstances arise which would cause the OSA to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the OSA.
15. **SALES TAX EXEMPTION:** The Services under this Contract will be paid for from the OSA's funds and used in the exercise of the OSA's essential functions as a State of Utah entity. Upon request, the OSA will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the OSA's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
16. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** Contractor shall maintain the following insurance coverage:

- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
- b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
- c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
- d. Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the OSA before the Contract may commence.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

17. **RESERVED.**

18. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the OSA and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the OSA, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The OSA and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
19. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the OSA, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.
20. **ACCEPTANCE AND REJECTION:** The OSA shall have thirty (30) days after the performance of the Services to perform an inspection of the Services to determine whether the Services conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Services by the OSA. Notwithstanding the foregoing, the parties acknowledge and agree that the determination as to 1) whether to issue an audit opinion relating to the financial statements of the Entity for the fiscal year(s) covered by this contract, and 2) the form of any such opinion is at the sole discretion of the Contractor.
If Contractor delivers nonconforming Services, the OSA may, at its option and at Contractor's expense: (i) return the Services for a full refund; (ii) require Contractor to promptly correct or reperform the nonconforming Services subject to the terms of this Contract; or (iii) obtain replacement Services from another source, subject to Contractor being responsible for any cover costs.
21. **INVOICING:** Contractor will submit invoices within thirty (30) days of Contractor's performance of the Services to the OSA. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the OSA will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. The OSA has the right to adjust or return any invoice reflecting incorrect pricing.
22. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the OSA, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the OSA within ten (10) business days of receipt of final payment, shall release the OSA and the State of Utah from all claims and all liability to the Contractor. The OSA's payment for the Services shall not be deemed an acceptance of the Services and is without prejudice to any and all claims that the OSA or the State of Utah may have against Contractor. The State of Utah and the OSA will not allow the Contractor to charge end users electronic payment fees of any kind.
23. **TIME IS OF THE ESSENCE:** The Services shall be completed by any applicable deadline stated in this Contract. For all Services, time is of the essence. Contractor shall be liable for all reasonable damages to the OSA, the State of Utah, and anyone for whom the State of Utah may be liable as a result of Contractor's failure to timely perform the Services required under this Contract.
24. **CHANGES IN SCOPE:** Any changes in the scope of the Services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee

adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of Services.

25. **PERFORMANCE EVALUATION:** The OSA may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.
26. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract. Contractor shall be liable to the OSA and the State of Utah for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
27. **REVIEWS:** The OSA reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the OSA.
29. **REMEDIES:** Any of the following events will constitute cause for the OSA to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The OSA may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the OSA may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the OSA or the State of Utah; or (v) demand a full refund of any payment that the OSA has made to Contractor under this Contract for Services that do not conform to this Contract.
30. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The OSA may terminate this Contract after determining such delay will prevent successful performance of this Contract.
31. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential in accordance with applicable professional auditing standards; and (iii) not disclose any Confidential Information received by it to any third parties other than in accordance with applicable professional auditing standards. Contractor will promptly notify the OSA of any potential or actual misuse or misappropriation of Confidential Information.
Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the OSA and the State of Utah, including anyone for whom the OSA or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.
Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the OSA or certify, in writing, that the Confidential Information has been destroyed, provided that Contractor may retain its workpapers in accordance with applicable professional auditing standards. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
32. **PUBLICITY:** Contractor shall submit to the OSA for written approval all advertising and publicity matters relating to this Contract. It is within the OSA's sole discretion whether to provide approval, which must be done in writing.
33. **RESERVED.**
34. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the OSA and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the OSA or the State of Utah for infringement by Contractor of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
35. **RESERVED.**
36. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The OSA and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically created or manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the OSA.
37. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
38. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.

39. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
40. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The OSA, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the OSA appoints such an expert or panel, OSA and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
41. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the OSA or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
42. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the OSA's right to enforce this Contract with respect to any default or defect in the Services that has not been cured.
43. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
44. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
45. **ANTI-BOYCOTT ACTIONS:** In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any "economic boycott" nor a "boycott of the State of Israel" as those terms are defined in Section 102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in writing.

(Revision Date: 7/20/2023)
(OSA Revision Date: 3/28/2024)