

MEETING NOTICE
SCHOOL AND INSTITUTIONAL TRUST FUND
BOARD OF TRUSTEES
Friday, December 12, 2014
Suite 180, State Capitol
Salt Lake City
10:30 A.M. – 11:30 A.M.

A G E N D A

1. CALL MEETING TO ORDER
2. APPROVAL OF MINUTES
November 14, 2014
3. REVIEW AND APPROVE RFP FOR EXECUTIVE SEARCH FIRM

One or more members of the Board may participate via telephonic conference originated by the Chair, and the meeting may be an electronic meeting, and the anchor location shall be as set forth above, within the meanings accorded by Utah law. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations during the meeting should notify Kathy Wilkey, Administrative Assistant, at State Capitol Suite 180, 801-538-1042 at least three working days prior to the meeting.

SCHOOL AND INSTITUTIONAL TRUST FUND
BOARD OF TRUSTEES
350 N STATE ST STE C180
SALT LAKE CITY, UT
NOVEMBER 14, 2014

Draft Minutes

Board Members Attending: Richard Ellis, John Lunt, Duane Madsen (by phone), Kent Misener and David Nixon.

Others Attending: David Damschen and Allen Rollo, staff; Michael Green, OAG; Bruce Williams, Tim Donaldson and Paula Plant, USOE.

1. Call Meeting to Order

Mr. Ellis called the meeting to order.

2. Approval of Minutes

Mr. Misener requested that the last sentence in item 8 of the October 10, 2014 minutes be amended by adding an “a” before “better measure of fund performance”. Mr. Nixon made a motion to approve the minutes as amended by Mr. Misener, Mr. Lunt seconded the motion. The motion to approve the October 10, 2014 minutes as amended passed unanimously.

The Board then considered the approval of the minutes from the October 31, 2014 meeting. Mr. Misener made a motion to approve the minutes, Mr. Nixon seconded the motion. The motion to approve the October 31, 2014 minutes passed unanimously.

3. Adopt Ethics and Conflicts Policy

Mr. Ellis asked for comments on the Ethics and Conflicts Policy. The only change noted related to the Ethics and Conflicts Certification on page six of the meeting packet, which had two number 3's in the numbered list. Mr. Lunt made a motion to adopt the Ethics and Conflicts policy with an amendment to the numbering on the Certification form, Mr. Misener seconded the motion. The motion to adopt the Ethics and Conflicts Policy as amended was passed unanimously.

4. Adopt Board Bylaws

Mr. Ellis noted that under Article II there was a number 3 in the list that was not needed and Article X should be amended to require the vote of two-thirds (2/3) of the members of the Board to amend the bylaws. Mr. Nixon commented that Article VII should start a new paragraph and the first heading, letter A should be combined with item number 1 below it, since it is not a list. Mr. Misener made a motion to approve the bylaws as amended, Mr. Nixon seconded the motion. The motion to approve the bylaws passed unanimously.

5. Discuss Director Recruitment

Mr. Damschen provided additional information about Charles A. Skorina & Co. (Skorina) as requested by the Board. The Board members expressed concerns about the number of engagements that Skorina had referenced and the limited information provided by Mr. Skorina. Mr. Ellis noted that the Board was not obligated to use the small procurement purchase process and may be better served by going through a RFP process to select an executive search firm.

The board members concurred and Mr. Damschen will prepare an updated RFP and score sheet for the Board to review.

6. Review 2014 Q3 Callan Report

Mr. Ellis reviewed the Summary of Beneficiaries' Investment Balances as of September 30, 2014 and noted that the market value exceeded \$2.0 billion and that the School Fund constituted the majority of the trust fund assets with a market value of \$1.9 billion. The Summary of Real Estate Activity schedule showed that the trust funds had outstanding capital commitments totaling approximately \$58 million as of September 30, 2014. Mr. Ellis noted that the UBS Trumbull funds are open end real estate funds, while the rest of the real estate funds are closed end with the exception of Coral Canyon Town Center, which is owned directly by the Miner's Hospital trust. The investment income summary showed that the trust funds had earned about \$6.5 million as of September 30, 2014. Mr. Rollo noted that a substantial amount of dividends will be received in December from domestic equity funds' annual distributions.

Mr. Rollo reviewed the quarterly report prepared by Callan Associates for the quarter ending September 30, 2014. Mr. Rollo noted all of the trust funds had a slightly negative return for the quarter, but those returns exceeded their respective blended benchmark returns for the quarter. The domestic equity funds exceeded their respective benchmarks for quarter, 1-year, 3-year and 5-year periods. The international equity fund has tracked the benchmark closely over the long-term, although over shorter periods the return has deviated from the benchmark due to fair value pricing. The fixed income funds slightly outperformed their respective benchmarks for the quarter, although the Vanguard Intermediate Term Investment Grade Fund underperformed by about 150 basis points for the year. The core real estate funds had returns in the mid to upper two percent range, while the value added real estate funds had returns between 0% and 14%. The Fidelity Real Estate Growth Fund III and Long Wharf Real Estate Partners IV had returns of 11% and 14% respectively, due to sales of properties at above carrying values and an increase in carrying values. Mr. Rollo noted that the School Fund has performed well over the last five years ranking in the 13th percentile versus the Public Fund-Large (>1B) universe, but was ranked in the 54th percentile over 10 years due to weak performance versus the peer group in 2005, 2006 and 2007.

The next meeting will be held on December 12 at 10:30 am.

There were no other items of business, so Mr. Misener made a motion to adjourn, Mr. Lunt seconded the motion. The board voted unanimously to adjourn the meeting.

**Request for Proposals
Executive Search Firm
State of Utah
School and Institutional Trust Fund Board of Trustees**

**Issued by: The Utah Department of Administrative Services
Division of Purchasing & General Services**

Solicitation #:

Issue Date:

Questions Due:

Responses Due:

DRAFT

REQUEST FOR PROPOSALS

Contents

Part 1: Introduction, Scope of Work, and Instructions	1
1.0 Introduction to Request for Proposals (RFP)	1
1.1 Definitions	1
1.2 Statement of Purpose	1
1.3 Background.....	1
1.4 Cancellation	2
1.5 Scope of Work.....	2
2.0 Instructions and Information	2
2.1 Response Format	2
2.2 Administrative Guidance.....	3
2.3 Issuing Procurement Unit and RFP Reference Number	3
2.4 Submitting a Response.....	3
2.5 Questions	5
2.6 Award of the Contract	5
2.7 Length of Contract Period	5
2.8 Incurring Costs	5
2.9 Addenda to RFP	5
2.10 Other Communications	6
2.11 Reservation of Rights.....	6
2.12 Protected Information.....	6
2.13 Modifications to, or Withdrawal of, a Response.....	7
2.14 Contract Terms and Conditions.....	7
Part 2: Information Required in Submission of a Response	9
3.0 Minimum Qualifications.....	9
4.0 Firm Qualifications	9
4.1 Firm Background and Experience.....	9
4.2 Personnel.....	10
4.3 Technical Capabilities and Work Plan.....	10
4.4 References	10
4.5 Cost.....	10
4.6 Current Litigation	10
4.7 Other.....	11
Part 3: Response Evaluation	12
5.0 Response Evaluation	12
5.1 Evaluation Criteria Summary	12
5.2 Evaluation Process.....	12
5.3 Interviews and Presentations.....	12
Part 4: Contract Items	14

REQUEST FOR PROPOSALS

6.0	General Contract Items	14
6.1	Assignment	14
6.2	Compliance	14
6.3	Cancellation	14
6.4	Acceptance of Services Rendered.....	14
6.5	Records and Audit Rights.....	14
6.6	Relationship of the Parties	14
6.7	Equal Opportunity	14
6.8	Remedies	15
6.9	Other	15
6.10	Personnel Substitutions	15
	Appendix A: RFP Form	16
	Appendix B: Terms and Conditions for Professional Services.....	17
	Appendix C: RFP Evaluation Scoresheet	23

DRAFT

PART 1: INTRODUCTION, SCOPE OF WORK, AND INSTRUCTIONS

1.0 Introduction to Request for Proposals (RFP)

1.1 Definitions

As used in this RFP:

- a. "Board" means the Utah School and Institutional Trust Fund Board of Trustees, an instrumentality of the State of Utah.
- b. "Contract" means an agreement, pursuant to specified terms, entered into by the Utah School and Institutional Trust Fund Board of Trustees (Board) and an executive search firm to identify and recruit well-qualified candidates for the position of Utah School and Institutional Trust Fund Office Director/Chief Investment Officer.
- c. "Contractor" means the Firm selected by the Board based upon its response to this RFP.
- d. "Director" means the School and Institutional Trust Fund Office Director/Chief Investment Officer.
- e. "Firm" or "Responding Firm" means an entity responding to this RFP.
- f. "Funds" means the approximately \$2 billion market value of investments managed on behalf of the twelve beneficiaries of Utah's Enabling Act land grants.
- g. "Office" means the Utah School and Institutional Trust Fund Office.
- h. "Response" means the response to this RFP.
- i. "RFP" means this Request for Proposals.

1.2 Statement of Purpose

The Board is soliciting proposals pursuant to a contract with an executive search firm to conduct a nationwide search for the position of School and Institutional Trust Fund Office Director.

This RFP, having been determined to be the appropriate procurement method to provide the best value to the State, is intended to provide interested offerors with basic information sufficient to solicit proposals which meet minimum requirements.

1.3 Background

Legislation was passed during Utah's 2014 general session which formed the independent Utah School and Institutional Trust Fund Office, which is governed by the Utah School and Institutional Trust Fund Board of Trustees. The Office is charged with the investment of the Funds, which have been managed by the Utah State Treasurer's Office since 1981.

The Funds are invested as follows:

- In domestic equities through the use of active quantitative funds
- In fixed income and international equities with index funds
- In core real estate through open-ended funds
- In core-plus/value-added real estate primarily through closed-end funds
- In cash through the use of the Utah Public Treasurers' Investment Fund

It is expected that in the future the Funds' investments might further diversify into additional active strategies and alternative asset classes.

The Director will bear the responsibility of forming this new office, hiring its staff (with expected FTE of approximately 3), and serving as the Office's Chief Investment Officer. Candidates best-qualified for the Director position would hold the CFA charter and also have significant managerial and administrative experience, preferably in the public sector.

1.4 Cancellation

The State reserves the right to cancel this solicitation at any time and not award a contract if such action is determined in writing to be in the best interest of the State.(ref. §63G-6a-709 UCA).

1.5 Scope of Work

This section describes the services required under this Contract. By responding to this RFP, respondents agree to perform all tasks as required within this Scope of Work.

The selected firm shall provide the following services to the Board:

- a. Assist the Board with the development of position description and compensation range;
- b. Develop and execute a strategy for search, recruitment, screening, and evaluation of candidates;
- c. Maintain all resumes and related materials in a manner consistent with state and federal law and designed to preserve the confidentiality of all candidates;
- d. Review resumes for qualifications and experience;
- e. Conduct follow-up telephone, video and/or in-person interviews as needed to clarify candidates' experience;
- f. Verify and evaluate candidates' educational background, professional references, and professional certifications;
- g. Convene meetings with and engage in active and ongoing interaction with the Board throughout all stages of the recruitment and selection process;
- h. Prepare and present interim progress reports to the Board as requested;
- i. Prepare and deliver to the Board written profile summaries for candidates considered competitive for the position;
- j. Organize, schedule, and facilitate Board interviews of final candidates and, if requested, assist in finalizing the terms and conditions of employment for the successful candidate;
- k. Notify unsuccessful candidates; and
- l. In the event that the selected candidate leaves employment with the Board before a period of one year, an additional recruitment and selection process will be conducted at no cost to the Board.

2.0 Instructions and Information

2.1 Response Format

All Responses must include:

1. **RFP Form.** The State's RFP form (**Attachment A**) completed and signed by the Firm.

2. **Executive Summary.** A one or two page executive summary can be used to briefly describe the Firm's Response. This summary should highlight the major features of the Response. It must indicate any requirements that cannot be met by the Firm. The reader should be able to determine the essence of the Response by reading the executive summary.
3. **Detailed Response.** This section should constitute the major portion of the Response and must contain at least the following information:
 - a. A specific point-by-point response, in the order listed, to each requirement within **Part 2: Information Required in Submission of a Response** of the RFP ("Minimum Qualifications" and "Firm Qualifications"). The Board recommends that the Firm re-state questions (delineated by bold font) contained within this RFP with the corresponding answers (delineated by non bolded font) following each question.
 - b. In any case wherein the Firm cannot comply with a requirement outlined under section 1.5, "Scope of Work," **such inability must be stated in response to the applicable requirement(s).**
 - c. Potential Conflicts of Interest - Identify any conflict, or potential conflict of interest, that might arise during the course of the project. If no conflicts are expected, include a statement to that effect in the Response.
4. **Protected Information.** All protected information must be included in this section of the Response. Do not incorporate protected information throughout the Response; rather, provide a reference in the Response directing reader to the specific area of the "Protected Information" section.

2.2 Administrative Guidance

The information provided in this RFP is intended to assist Firms in preparing Responses, but is not intended to limit a Response's content or to exclude any relevant or essential data. Responding Firms are encouraged to expand upon the specifications to give additional evidence of their ability to provide the services requested in this RFP.

2.3 Issuing Procurement Unit and RFP Reference Number

The State of Utah Division of Purchasing is the issuing procurement unit for this RFP and all subsequent addenda relating to it, on behalf of the Board. The reference number for the transaction is **Solicitation # [REDACTED]**. This number must be referred to on all Responses, correspondence, and any other documentation relating to this RFP.

2.4 Submitting a Response

By submitting a Response to this RFP, the Firm acknowledges and agrees that the requirements, Scope of Work, and the evaluation process outlined in the RFP are understood, fair, and equitable, and are not unduly restrictive.

Notification to the State of any ambiguity, inconsistency, excessively restrictive requirements, errors in the solicitation documents, solicitation questions, or exception to the scope/content of the RFP *must* be submitted as a question through BidSync during the solicitation process and prior to the due date and time for questions. Exceptions to scope/specifications of the RFP that have not been previously addressed within the Q&A period of the procurement will be disallowed.

The State prefers that you submit your Response electronically through BidSync. However, if you choose to submit your Response in hard copy form, one original and four identical copies of your response must be received prior to the posted due date and time at the following address:

State of Utah Division of Purchasing,
3150 State Office Building, Capitol Hill
P.O. Box 141061
Salt Lake City, Utah 84114-1061

Facsimile transmission of bids to the Division will not be considered.

When submitting your Response electronically through BidSync, please allow sufficient time to complete the online forms and to upload your Response documents. The solicitation will end at the closing time posted in BidSync. If you are in the middle of uploading your Response when the deadline is reached, the system will stop the upload process and your Response will not be accepted by BidSync, and your attempted submission will be considered as non-responsive.

Each of the following steps in BidSync MUST be completed in order to submit a response:

- A. Login to www.bidsync.com;
- B. Locate the bid (solicitation) to which you are responding;
 1. Click the "Search" tab on the top left of the page;
 2. Enter keyword or bid (solicitation) number and click "Search";
- C. Click on the "Bid title/description" to open the Bid (solicitation) Information Page;
- D. "View and Accept" all documents in the document section;
- E. Select "Place Offer" found at the bottom of the page;
- F. Enter your proposal pricing, notes, other required information and upload attachments to this page;
- G. Click "Submit" at the bottom of the page;
- H. Review Offer(s); and
- I. Enter your password and click "Confirm".

Note that the final step in submitting a Response involves the Firm's acknowledgement that the information and documents entered into the BidSync system are accurate and represent the Firm's actual response. This acknowledgement is registered in BidSync when the Firm clicks "Confirm". BidSync will post a notice that the response has been received. This notice from BidSync MUST be recorded prior to the due date and time or the response will be considered late and will not be accepted.

Responses submitted in BidSync are completely secure. No one (including state purchasing staff) can see responses until after the deadline. Firms may modify or change their response at any time prior to the closing deadline. However, all modifications or changes must be completed and acknowledged (Confirm) in the BidSync system prior to the deadline. BidSync

will post a notice that the modification/change (new response) has been received. This notice from BidSync MUST be recorded prior to the due date and time or the response will be considered late and will not be accepted.

Utah Code Annotated (UCA) 46-4-402(2) Unless otherwise agreed between a sender (Firm) and the recipient (State Purchasing), an electronic record is received when: (a) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and (b) it is in a form capable of being processed by that system.

Electronic Responses may require uploading of electronic attachments. BidSync's site will accept a wide variety of document types as attachments. However, the State of Utah is unable to view certain documents. Therefore, **do not** submit documents that are embedded (zip files), movies, wmp, encrypted, and mp3 files. All documents must be uploaded in BidSync as separate files.

2.5 Questions

All questions *must* be submitted through BIDSYNC (www.bidsync.com). Questions submitted through any other channel will not be answered. Only answers disseminated by the State through the BidSync system or through an authorized and properly issued addendum shall serve as the official and binding position of the State.

2.6 Award of the Contract

After the evaluation and final scoring of proposals is completed, the procurement officer shall award the contract as soon as practicable to the eligible responsive offeror with the highest score.

2.7 Length of Contract Period

The Contract period will conclude when the Board successfully hires the Director. However, as specified in the Scope of Work (section 1.5, item I.), in the event that the selected candidate leaves employment with the Board before a period of one year, the Contract remains effective until such time as an additional recruitment and selection process can be conducted at no cost to the Board, and until a successful hiring results from such contingent recruitment.

2.8 Incurring Costs

The Board will not be liable for costs that Firms may incur in connection with the preparation, submission, or presentation of their Responses, including all travel, dining, lodging, and communication expenses. Responses should be concise, straightforward, and prepared simply and economically. Expensive displays, bindings, or promotional materials are neither desired nor required. However, these instructions should not limit a Response's content or exclude any relevant or essential data.

The Board will not be liable for any costs of a successful Firm relating to conducting Contract negotiations, including drafting, research, legal review, preparation, attending meetings, travel, dining, lodging, and communication expenses.

2.9 Addenda to RFP

Firms should periodically check BidSync for posted questions, answers and addenda. Any modification to this procurement will be made by addendum issued by the State Division of Purchasing. Only authorized and properly issued addenda shall constitute the official and

binding position of the State. Any response to this RFP which has as its basis any communications or information received from sources other than this RFP or related official addenda could be considered non-responsive and be rejected at the sole discretion of the State.

2.10 Other Communications

During the RFP process (from the date of issue through the date of contract award or other final decision), the Division of Purchasing will be the sole source of official information regarding this RFP. Any and all oral agreements or conversations are not binding on Board. Signed, written agreements represent the only contractual obligations of Board.

2.11 Reservation of Rights

The issuance of this RFP in no way constitutes a commitment by Board to award a Contract. The Board reserves the right to cancel this RFP at any time pursuant to UCA 63G-6a-709.

2.12 Protected Information

The Government Records Access and Management Act (GRAMA), UCA 63G-2-305, provides in part that:

The following records are protected if properly classified by a government entity:

(1) trade secrets as defined in UCA 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in UCA 63G-2-309 (Business Confidentiality Claims);

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

* * * * *

(6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this Subsection (6) does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed;

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

To protect information under a Claim of Business Confidentiality, the firm must:

1. Provide a written Claim of Business Confidentiality *at the time the information (response) is provided to the state*, and
2. Include a concise statement of reasons supporting the claim of business confidentiality (UCA 63G2-309(1)).
3. Submit an electronic “redacted” (excluding protected information) copy of your response. Copy must clearly be marked “Redacted Version.”

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. Pricing and service elements may not be protected. The claim of business confidentiality must be submitted with your response on the form which may be accessed at:

<http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc>

An entire response cannot be identified as “PROTECTED,” “CONFIDENTIAL” or “PROPRIETARY” and may be considered non-responsive if marked as such.

To ensure the information is protected, you must include all protected information in Section 4 of your Response. Any protected information incorporated in other sections of the Response may result in release of data at no fault of the Board.

All materials submitted become the property of the Board. Materials may be evaluated by anyone designated by the Board as part of the Evaluation Committee. Materials submitted may be returned only at the Board's option.

2.13 Modifications to, or Withdrawal of, a Response

A Firm may modify or withdraw a Response at any time before the closing time and date of this RFP by providing the State with a written modification or written statement withdrawing the response. A response may not be withdrawn for a period of 60 days from the response due date.

2.14 Contract Terms and Conditions

Any Contract resulting from this RFP will include but not be limited to the State's Terms and Conditions for Professional Services (**Appendix B**). Requests for exemptions from, or exceptions and/or additions to the State's Terms and Conditions for Professional Services can be submitted but are strongly discouraged.

Proposed exemptions, exceptions or additions to the Terms and Conditions for Professional Services must be submitted as part of Firm's Response. Exemptions, exceptions, additions, service level agreements, etc. submitted after the date and time for receipt of Responses will not be considered. Website URLs, or information on website URLs may not be incorporated into any form of proposed exception or addition to the Terms and Conditions for Professional Services. URLs provided as part of a Response may result in that Response being rejected as non-responsive. Also, any use of URLs within the final Contract are prohibited.

The Board retains the right to refuse to negotiate on exceptions should the exceptions be excessive, not in the best interest of the State, or if such negotiations or exceptions could result in excessive costs to the State, or could adversely impact existing time constraints.

If negotiations are required, Firm must provide all documents in Microsoft® Word format for

redline editing. Firm must provide the name, contact information, and access to the person(s) that will be directly involved in legal negotiations.

Contracts written pursuant to this RFP will not be legally binding without the written approval of the director of the Division of Purchasing.

DRAFT

PART 2: INFORMATION REQUIRED IN SUBMISSION OF A RESPONSE

3.0 Minimum Qualifications

- a. The Offeror must be a national or regional professional executive search firm that specializes in, or has at least five (5) recent years' experience in recruiting institutional investment professionals for public or nonprofit trusts, foundations, endowments, or retirement systems, private pension plans, or investment management firms.
- b. The Offeror must have successfully concluded executive search services for Chief Investment Officers, or the equivalent position, for at least five (5) public or nonprofit trusts, foundations, endowments, or retirement systems, private pension plans, or investment management firms managing over \$1 billion in assets;
- c. The Offeror shall assign at least one (1) executive search professional to this Contract who has a minimum of five (5) recent years of experience as an executive search professional. The Offeror shall submit resumes for each executive search professional that it will assign to the Contract.
- d. The Offeror must provide a statement that it is not in bankruptcy, conservatorship, receivership, or in the possession of a regulatory agency.

4.0 Firm Qualifications

4.1 Firm Background and Experience

- a. How many years has your firm been conducting national searches for institutional investment professionals?
- b. Describe the operational structure of the firm. Identify the location(s) of the firm's office(s).
- c. Describe your company's overall qualifications and experience with the search and recruitment for institutional investment professionals for public or nonprofit trusts, foundations, endowments, or retirement systems, private pension plans, or investment management firms, with particular emphasis on searches for clients with portfolios of \$1 billion or more.
- d. Describe the size of your firm.
- e. Provide a listing of staff members with brief descriptions of staff member responsibilities.
- f. *In an appendix*, provide a list of all of your firm's Chief Investment Officer (or equivalent position) searches for public or nonprofit trusts, foundations, endowments, or retirement systems, private pension plans, or investment management firms with \$1 billion or more in assets in the last five (5) years.
- g. How many searches similar to that of this RFP is your firm working on at this time? Please indicate any potential conflicts.

4.2 Personnel

- a. Specify the names, titles, addresses, phone numbers, and e-mail address for all personnel that will have ongoing responsibility for work under the Contract.
- b. Provide a resume for the primary recruiter that will be assigned to the Contract, and detail the searches performed by this individual which are similar to the engagement described within this RFP.

4.3 Technical Capabilities and Work Plan

Provide a detailed work plan describing the steps your firm would take to complete the recruitment and placement of the Office's Director/CIO. Include the required steps in the Scope of Work (1.5), along with additional steps your firm would take during the recruitment process.

Include as part of the plan a basic proposed timetable, and discuss the manner in which your Firm will communicate progress to the Board throughout the engagement.

Describe the resources on which your Firm relies in the search and recruitment process, to include professional associations, research, networks, and data sources.

Include information about your firm's qualifications and ability to provide input on compensation packages and contract negotiations and what resources would be used to determine an appropriate compensation package.

4.4 References

The Offeror shall provide a minimum of five (5) references from organizations for whom the Offeror has provided within the last five (5) years similar executive search services as required by this RFP, including contact names, titles, addresses, telephone numbers, and email addresses.

4.5 Cost

- a. **Provide a fee quote** based on a percentage of the successful candidate's first year compensation, or as a flat fee, or both. (The expected salary range for the successful candidate is \$125,000 - \$175,000. Offerors should assume \$175,000 to be applied in the calculation of fee based on percentage of successful candidate's first year compensation. If an option between percentage-based or flat fee is proposed, the lesser cost based upon these assumptions will be applied in the evaluation of offeror's cost proposal to determine the lowest proposed price).
- b. Reasonable reimbursable travel expenses incurred for meetings between Contractor and the Board, Contractor and candidates for interviews, and by candidates to interview with the Board must be approved in advance by the Board, and will be paid on a monthly basis upon presentment of invoice and supporting documentation from Contractor.
- c. **Provide an estimate**, based on Firm's experience with similar engagements, of total projected travel costs for this engagement. Travel cost estimates are for informational purposes, and *will not be factored in to Firm's cost proposal*.

4.6 Current Litigation

Identify and describe any current litigation or investigation by a regulatory authority that your company, its officers or principals have been involved in within the last three years relative to your services as an executive search firm.

4.7 Other

Provide any other information you believe will be useful to the Board in evaluating your qualifications for leading this search.

DRAFT

PART 3: RESPONSE EVALUATION

5.0 Response Evaluation

5.1 Evaluation Criteria Summary

<u>WEIGHT</u>	<u>EVALUATION CRITERIA</u>
30%	Firm's background and experience
10%	Qualifications and expertise of personnel
20%	Firm's technical capability/quality of work plan
20%	Quality and comparability of references
<u>20%</u>	Cost proposal
100%	

5.2 Evaluation Process

All Responses submitted will be evaluated by an Evaluation Committee in a manner consistent with the Utah Procurement Code, rules, policies, and the evaluation criteria set forth in this RFP. Each Firm bears sole responsibility for the items included or not included within the Response that it submits.

The Evaluation Committee will review all Responses timely received to determine their responsiveness to the RFP. Non-responsive Responses (that is, Responses that fail to conform to all material respects of this RFP), will be disqualified from further consideration.

The State specifically reserves the right to disqualify any Response for:

- a. a violation of the Utah Procurement Code;
- b. a violation of a requirement of this RFP, including significant deviations or exceptions;
- c. unlawful or unethical conduct;
- d. a change in circumstances that, had the change been known at the time the response was submitted, would have caused the response to be disqualified or not have the highest score;
or
- e. failure to meet Minimum Qualifications as detailed herein (**section 3.0**).

The Evaluation Committee will evaluate and score conforming Responses against the weighted evaluation criteria detailed on the RFP Evaluation Scoresheet (**Appendix C**).

5.3 Interviews and Presentations

Interviews and presentations may be held at the option of the State. Firms invited to interviews or presentations shall be limited to those Firms meeting the minimum requirements specified in the RFP.

Representations made by a Firm during interviews or presentations shall become an addendum to the Firm's proposal and shall be documented. Representations must be consistent with the Firm's original proposal and may only be used for purposes of clarifying or filling in gaps in the Firm's proposal.

The procurement officer shall establish a date and time for the interviews or presentations and shall notify eligible Firms of the procedures. Interviews and presentations will be at the Firm's expense.

DRAFT

PART 4: CONTRACT ITEMS

6.0 General Contract Items

6.1 Assignment

The firm shall not assign or subcontract any portion of its obligations under the Contract without prior written consent of the Board. Assignment or subcontracting shall in no way relieve the firm of any of its obligations under the Contract.

6.2 Compliance

The firm hereby agrees to abide with all applicable federal, state, county, and city laws and regulations and to be responsible for obtaining and/or possessing any and all permits and licenses that may be required.

6.3 Cancellation

Inadequate delivery, unsatisfactory service, or failure to adhere to the Contract covenants may result in cancellation of the Contract. The Firm shall be responsible for reimbursing the Board for expenses incurred as a result of unacceptable service. In the event that either party determines a material breach has occurred that would be cause for cancellation of the Contract, the party wishing to cancel shall notify the other party of the alleged breach in writing and allow the other party 30 days in which to cure the alleged breach. If the alleged breach is not cured or substantial steps to cure the alleged breach are not taken within this period, the non-defaulting party may cancel the Contract at the end of said 30-day period.

6.4 Acceptance of Services Rendered

Board, through its designated representatives, will be the sole determining judge of whether services rendered under the Contract satisfy the requirements as identified in the Contract.

6.5 Records and Audit Rights

Any firm providing goods or services under any contract shall maintain accurate accounting records for all goods and services provided under the Contract and shall retain all such records for at least four years following termination of the Contract. Upon reasonable notice and during normal business hours, Board or any of its duly authorized representatives shall have access to and the right to audit any records or other documents pertaining to the Contract. The Board's audit rights shall extend throughout the term of the Contract and for a period of at least four years thereafter.

6.6 Relationship of the Parties

In assuming and performing the obligations of any contract the Board and any Firm shall each be acting as independent parties and shall not be considered or represent itself as a joint venture, partner, employee or agent of any other.

6.7 Equal Opportunity

No Firm party to any Contract shall discriminate against any employee, applicant for employment, or recipient of services on the basis of veteran status, race, religion, color, sex, age, disability, or national origin.

6.8 Remedies

The laws of the State of Utah shall apply in all disputes arising out of this RFP and the ensuing Contract, without application of any principles of choice of laws. All disputes will be heard in Utah District Court in Salt Lake City, Utah.

6.9 Other

All provisions of this RFP, including those outlined under Scope of Work (**section 1.5**) are considered as contract terms and conditions, are incorporated by reference into any Contract between Firm and the Board and are accepted by Firm(s) as such.

Firm selected pursuant to this RFP shall enter into a Contract for executive search services with the Board.

6.10 Personnel Substitutions

Substitutions in personnel (those individuals listed by Firm under its response to "Personnel," **section 4.2**) may not be made without the express written authorization of the Board.

DRAFT

APPENDIX A: RFP FORM

Legal Company Name (include d/b/a if applicable) <input type="text"/>		Federal Tax Identification Number <input type="text"/>		State of Utah Sales Tax ID Number <input type="text"/>	
Ordering Address <input type="text"/>		City <input type="text"/>		State <input type="text"/>	Zip Code <input type="text"/>
Remittance Address (if different from ordering address) <input type="text"/>		City <input type="text"/>		State <input type="text"/>	Zip Code <input type="text"/>
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government		Company Contact Person <input type="text"/>			
Telephone Number (include area code) <input type="text"/>	Fax Number (include area code) <input type="text"/>	Email Address <input type="text"/>			
Price Guarantee Period (see attached specifications for any required minimums) <input type="text"/>					
Company's Internet Web Address <input type="text"/>					
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes <input type="checkbox"/> No <input type="checkbox"/> . If no, enter where produced, etc. <input type="text"/>					
Offeror's Authorized Representative's Signature <input type="text"/>			Date <input type="text"/>		
Type or Print Name <input type="text"/>			Position or Title <input type="text"/>		

APPENDIX B: TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

STATE OF UTAH TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

1. **AUTHORITY:** Provisions of this contract ("Contract") are pursuant to the authority set forth in 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this Contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The person or entity contracting with the State under this Contract ("Contractor") and any and all supplies, services, equipment, and construction furnished under this Contract will comply fully with all applicable Federal, and State, and local laws, codes, rules, regulations, and ordinances, including applicable licensure and certification requirements.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of, all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract. These records shall be retained by the Contractor for at least four years after the Contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency staff, access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **TIME:** The Contractor shall complete the Scope of Work in a manner to achieve any milestones identified in the procurement documents related to this Contract and the attachments to this Contract. The full Scope of Work shall be completed by any applicable deadline stated in the solicitation.
6. **TIME IS OF THE ESSENCE:** For all work and services under this Contract, time is of the essence and Contractor shall be liable for all damages to the State of Utah and anyone for whom the State of Utah may be liable, as a result of the failure to timely complete the Scope of Work required under this Contract.
7. **PAYMENT:**
 - 7.1 Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 60 days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Utah Code Section 15-6-3. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue.
 - 7.2 The contract total may be changed only by written amendment executed by authorized personnel of the parties. Unless otherwise stated in the Contract, all payments to the Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's purchasing card (major credit card).
 - 7.3 The acceptance by the Contractor of final payment without a written protest filed with the State within ten (10) working days of receipt of final payment shall release the State from all claims and all liability to the Contractor for fees and costs of the performance of the services pursuant to this Contract.
8. **PROMPT PAYMENT DISCOUNT:** Intentionally deleted.
9. **CHANGES IN SCOPE:** Any changes in the scope of the work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by duly authorized

representatives of 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 Work.

10. DOCUMENT OWNERSHIP: Contractor agrees that any work/services and all Deliverables prepared for State, to the extent to which it is eligible under copyright law in any county, shall be deemed a work made for hire, such that all right, title and interest in the work and Deliverables reside with the State. To the extent any work or Deliverable is deemed not to be, for any reason whatsoever, work made for hire, Contractor agrees to assign and hereby assigns all right, title, and interest, including but not limited to, copyright, patent, trademark, and trade secret, to such work and Deliverables, and all extensions and renewals thereof, to the State. Contractor further agrees to provide all assistance reasonably requested by State in the establishment, preservation and enforcement of its rights in such work and deliverables, or subsequent amendments or modifications to such work and deliverables, without any additional compensation to Contractor. Contractor agrees to waive, and hereby, to the extent permissible, waives, all rights relating to such work and deliverables, or subsequent amendments or modifications to such work and deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use.

11. 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 Response process, and to sole sources that are included within a Request for Response. It does not apply to Invitation to Bids nor to the Multi-Step Process.

11.1 Status Verification System

(1) Contractor certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302.

(2) The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Utah Code Ann. Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."

(3) The State will not consider a response for award, nor will it make any award, where there has not been compliance with this Section.

(4) Manually or electronically signing the Response is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws, including Utah Code Ann. Section 63G-12-302.

11.2 Indemnity Clause for Status Verification System

Contractor (includes, but is not limited to any Contractor or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Contractor's subcontractor or subconsultant at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.

12. CONFLICT OF INTEREST: Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with Section 67-16-8, Utah Code Annotated, 1953, as amended. Contractor also represents that it has no conflict of interest in performing the services for the State under this Contract, unless such conflict of interest has been disclosed to the State and approval to proceed, notwithstanding the conflict, has been obtained from the State in writing.

13. CONTRACTOR AN INDEPENDENT CONTRACTOR: The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements,

settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and Social Security amounts due as a result of payments received from the State for these Contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.

- 14. INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all claims, loss, damages, injury, liability, suits, and proceedings arising out of the performance of this Contract which are caused in whole or in part by the acts or negligence of (a) the Contractor, (b) the Contractor's officers, agents, volunteers, or employees, (c) the Contractor's subcontractors or subconsultants at any tier, or (d) anyone for whom Contractor may be liable but not for claims arising from the State's sole negligence. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability 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.
- 15. EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42 USC 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; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated December 13, 2006, which prohibits sexual harassment in the work place. Contractor also agrees to abide by any laws and policies of the State of Utah regarding any of the above mentioned prohibitions in this paragraph.
- 16. PERFORMANCE EVALUATION:** The State of Utah may conduct a performance evaluation of the Contractor's services, including specific personnel of the Contractor. References in the Contract to Contractor shall include Contractor, Contractor's subcontractors, or subconsultants at any tier, if any. Results of any evaluation will be made available to the Contractor.
- 17. WAIVERS:** No waiver by the State or Contractor of any default shall constitute a waiver of the same default at a later time or of a different default.
- 18. SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal authority, that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- 19. RENEGOTIATION OR MODIFICATIONS:** This Contract may be amended, modified, or supplemented only by written amendment to this Contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of this Contract. Automatic renewals will not apply to this Contract.
- 20. SUSPENSION/DEBARMENT:** The Contractor certifies that neither it nor its principals are presently or have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract), by any governmental department or agency in the United States, including any federal, state or local agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if suspended or debarred by any governmental entity during the Contract period.
- 21. TERMINATION:**
- 21.1 Unless otherwise stated in the Additional Terms and Conditions of the State of Utah, if applicable, this Contract may be terminated, with cause by either party, in advance of the specified termination date, upon

written notice being given by the other party. The party in violation will be given thirty (30) working days after notification to correct and cease the violations, after which this Contract may be terminated for cause. This Contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given to the other party. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

21.2 In the event of such termination, the Contractor shall be compensated for services properly performed under this Contract up to the effective date of the notice of termination. The Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State is limited to full payment for all work properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of the Contractor having to terminate contracts necessarily and appropriately entered into by the Contractor pursuant to this Contract. Contractor further acknowledges that in the event of such termination, all work product, which includes but is not limited to all manuals, forms, contracts, schedules, reports, and any and all documents produced by Contractor under this Contract up to the date of termination are the property of the State and shall be promptly delivered to the State.

22. INSURANCE:

22.1 To protect against liability, loss and/or expense in connection with the performance of services described under this Contract, the Contractor shall obtain and maintain in force during the entire period of this Contract without interruption, at its own expense, insurance as listed below from insurance companies authorized to do business in the State of Utah and with an A.M. Best rating as approved by the State of Utah Division of Risk Management.

22.2 The following are minimum coverages that may be supplemented by additional requirements contained in the solicitation for this Contract or provided in an Attachment to this Contract:

- (1) Worker's Compensation Insurance and Employers' Liability Insurance. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction.
- (2) General Liability Insurance. Contractor must carry insurance with policy limits no less than one million per incident and three million in the aggregate. Contractor must provide proof of insurance to State and must add State as an additional insured with notice of cancellation.
- (3) Professional liability insurance in the amount as described in the solicitation for this Contract, if applicable.
- (4) Any other insurance described in the solicitation for this Contract, if applicable.

22.3 Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

22.4 The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order.

23. STANDARD OF CARE: The services of Contractor and its subcontractors and subconsultants at any tier, if any, 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. The Contractor shall be liable to the State of Utah for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e. 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.

24. STATE REVIEWS, LIMITATIONS: The right of the State to perform plan checks, plan reviews, other reviews and/or comment upon the services of the Contractor, as well as any approval by the State, shall not be

construed as relieving the Contractor from its professional and legal responsibility for services required under this Contract. No review by the State or any entity/user, approval or acceptance, or payment for any of the services required under this Contract shall be construed to operate as a waiver by the State of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the wrongful acts, errors and/or omissions of the Contractor or its subcontractors or subconsultants at any tier, if any.

- 25. NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If the Legislature does not appropriate funds for paying the State's obligations on this Contract, or if funding to the State is reduced due to an order by the Governor, or is required by State law, or if Federal funding (when applicable) is not provided, the State may terminate this Contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice to Contractor. If this Contract is terminated, or services and purchase obligations are reduced due to nonappropriation of funds or reduction in funding, as described in the preceding sentence, the State will pay Contractor for services properly performed, and will reimburse Contractor for expenses incurred, as authorized under this Contract, through the date of cancellation or reduction, and this payment shall be Contractor's sole remedy, and the State will not be liable for any future commitments, penalties, or liquidated damages.
- 26. SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at <http://purchasing.utah.gov/contract/documents/salestaxexemptionformsigned.pdf>. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the Contract.
- 27. PUBLIC INFORMATION:** Contractor agrees that this Contract, related sales orders, and invoices shall be public documents, and shall be available for distribution. Contractor gives the State express permission to make copies of this Contract, related sales orders, and invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the State Division of Purchasing, Contractor also agrees that the Contractor's response to the solicitation, if applicable, will be a public document, and copies may be given to the public under GRAMA laws. This permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 28. PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this Contract.
- 29. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the State.
- 30. DEFAULT AND REMEDIES:**
- 30.1 Any of the following events will constitute cause for the State to declare Contractor in default of this Contract:
- (1) Nonperformance of contractual requirements; or
 - (2) A material breach of any term or condition of this Contract.
- 30.2 Should Contractor be in default under any of the provisions under Subsection 30.1 above, the State will 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 State may do one or more of the following: (1) Exercise any remedy provided by law; (2) Terminate this Contract and any related contracts or

portions thereof; (3) Impose liquidated damages, if liquidated damages are listed in the Contract; or (4) Suspend Contractor from receiving future solicitations.

- 31. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this Contract after determining such delay or default will reasonably prevent successful performance of this Contract.
- 32. PROCUREMENT ETHICS:** The 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 or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who 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 (63G-6-1002, Utah Code Annotated, 1953, as amended).
- 33. CONFLICT OF TERMS:** In order for any terms and conditions of the Contractor to apply to this Contract, they must be in writing and attached to this Contract. No other terms and conditions of the Contractor will apply to this Contract, including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the terms and conditions in the Contract, the order of precedence shall be: (1) Attachment A: State of Utah Terms and Conditions; (2) State of Utah Contract Signature Page(s); (3) Additional Terms and Conditions of the State of Utah; (4) Terms and Conditions of the Contractor, if any.
- 34. ENTIRE CONTRACT:** This Contract including all attachments and documents incorporated hereunder, and the related State solicitation documents, if any, constitutes the entire Contract between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Contract shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Contract shall prevail in any dispute between the terms of this Contract and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Contract.
- 35. DISPUTE RESOLUTION:** In the event of any dispute under this Contract prior to any filing in any judicial proceedings, the parties agree to participate in good faith in the mediation of the dispute. The State, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of the dispute. If the State appoints such an expert or panel, State 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.

(Revision date: 12 Apr 2013)

APPENDIX C: RFP EVALUATION SCORESHEET

**Request for Proposals: Executive Search Firm
State of Utah
School and Institutional Trust Fund Board of Trustees
SOLICITATION # _____**

Attachment __ - PROPOSAL EVALUATION SCORESHEET

Firm Name: _____

Evaluator: _____

Date: _____

Score will be assigned as follows:

- 0 = Failure, no response
- 1 = Poor, inadequate, fails to meet requirement
- 2 = Fair, only partially responsive
- 3 = Average, meets minimum requirement
- 4 = Above average, exceeds minimum requirement
- 5 = Superior

Any final fractional scores will be rounded up or down, with .5 rounding up.

EVALUATION CRITERIA	Points Possible	Score (0 - 5)	Weight	Points
Technical Evaluation Criteria (80% of Total Possible Points)				
1. Firm's background and experience (30 points possible)				
<ul style="list-style-type: none"> • Firm's overall structure, resources, experience. (4.1.a, b., c., d.) 	5 points		X 1	
<ul style="list-style-type: none"> • Firm's particularized experience in searches for positions with size and scope similar to that of this RFP for: <ul style="list-style-type: none"> ○ Governmental institutions ○ Non-profit institutions ○ Higher education institutions (4.1.f) 	25 points		X 5	
2. Qualifications and expertise of personnel (10 points possible)				
<ul style="list-style-type: none"> • Experience and qualifications of the <i>employee leading the search</i>. (4.2.b) 	5 points		X 1	
<ul style="list-style-type: none"> • Experience and qualifications of <i>offeror firm's personnel overall</i> (4.1.e, 4.2.a) 	5 points		X 1	
3. Technical capabilities and quality of work plan (20 points possible)				
<ul style="list-style-type: none"> • Quality of capabilities and plan (4.3) 	20 points		X4	
4. References (20 points possible)				
<ul style="list-style-type: none"> • Quality & comparability of references. (4.4) 	20 points		X4	
Total Technical Evaluation Points (80 possible)				

5. Cost (20 points possible)*

• Total proposed cost (Attachment ___ - Cost Proposal Form)	20 points	*Inserted by Purchasing
--	-----------	--------------------------------

TOTAL EVALUATION POINTS (100 points possible)

*Fee can be quoted as a percentage of the successful candidate's first year compensation, or as a flat fee, or both. The expected salary range for the successful candidate is \$125,000 - \$175,000. Offerors should assume \$175,000 to be applied in the calculation of fee based on percentage of successful candidate's first year compensation. If an option between percentage-based or flat fee is proposed, the lesser cost based upon these assumptions will be applied in the evaluation of offeror's cost proposal to determine the lowest proposed price.

The Division of Purchasing will use the following cost formula: The points assigned to each offeror's cost proposal will be based on the lowest proposed price. The offeror with the lowest proposed price will receive 100% of the price points. All other offerors will receive a portion of the total cost points based on what percentage higher their proposed price is than the lowest proposed price. An offeror whose proposed price is more than double (200%) the lowest proposed price will receive no points. The formula to compute the points is: $\text{Cost points} \times ((2 - \text{proposed price}) / \text{lowest proposed price})$.