

INFORMAL REQUEST FOR PROPOSALS
VIRGINIA RETIREMENT SYSTEM
1200 E. MAIN STREET
RICHMOND, VIRGINIA 23219
Voice Number: (804) 771-7355
Fax Number: (804) 786-1541
Email: gbarnes@varetire.org

TITLE: Executive Recruiting Services
QUOTE NUMBER: 158: 21-1015
ISSUE DATE: October 15, 2021 at 3:00 PM
DUE DATE: November 15, 2021 at 3:00 PM

All inquiries for information or questions should be directed to Garry Barnes, Procurement Manager, Virginia Retirement System by phone: (804) 771-7355, or by email to gbarnes@varetire.org. Inquiries and questions must be received at least 5 business days prior to the due date.

Proposals shall be emailed to Garry Barnes at gbarnes@varetire.org.

In compliance with the above referenced Informal Request for Proposals and all of the conditions imposed herein, in fact or by reference, the undersigned offers and agrees to furnish the services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiations.

Note: This IRFP is posted on the Commonwealth of Virginia's e-Procurement website known as eVA at eva.virginia.gov under the "Solicitations, Quick Quotes and Awards (VBO)" link. Any addenda issued that are related to this IRFP will also be posted on eVA.

PLEASE COMPLETE THE FOLLOWING INFORMATION:

PROPOSAL SUBMISSION:	
NAME AND ADDRESS OF OFFEROR:	
DATE:	
BY: (Signature in ink or electronic signature if applicable)	
NAME: (Print or type)	
TITLE:	
FEI/FIN	
TELEPHONE:	
EMAIL:	
FAX:	

INDICATE IF YOUR FIRM IS A:	<input type="checkbox"/> Small-business firm <input type="checkbox"/> Woman-owned firm <input type="checkbox"/> Minority-Owned firm
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PURPOSE:

The Virginia Retirement System (VRS) is seeking unsealed proposals from qualified firms to provide executive recruiting services for various executive-level positions. The purpose of this Informal Request for Proposals (IRFP) is to solicit proposals and subsequently to enter into a contract to provide executive recruiting services for VRS, the entity responsible for administering state retirement plans and ancillary benefits to more than 742,000 members, retirees and beneficiaries. This IRFP provides the basis upon which services will be evaluated and procured. Throughout the IRFP, the term “Offeror” will be used to refer to the entity submitting a proposal and the term “Contractor” will be used to refer to the entity selected to perform the services. “Contract” will be used to refer to the contract entered into by VRS and the Contractor to perform the services outlined in this IRFP. Services include but are not limited to advertising the position, soliciting and receiving applications, evaluating candidates throughout the entire selection process, attending meetings, and assisting VRS as needed.

BACKGROUND:

VRS, located in Richmond, Virginia, is an independent agency of the Commonwealth of Virginia that administers pension and related benefits for public sector employees at the state and local levels. Benefits are determined by the General Assembly through legislative action, and approximately 369 employees administer the programs that deliver these benefits. The fund is currently valued at approximately \$100 billion. The following are the key benefits or product lines administered by VRS:

- Defined benefit pension plans (Plan 1 and Plan 2 benefit tiers).
- Hybrid Retirement Plan comprised of defined benefit and defined contribution components.
- Defined contribution accounts.
- Group Life Insurance benefits including optional group life.
- Short and long term managed disability programs for state employees (Virginia Sickness and Disability Program or “VSDP”) and Hybrid employees of participating localities (Virginia Local Disability Program or “VLDP”). A traditional disability retirement benefit is also administered through the defined benefit retirement plan for members not participating in VSDP or VLDP.
- Employer-paid and optional long-term care (LTC) insurance for active state employees who participate in VSDP and local employees and teachers whose employers participate in VLDP.
- Health Insurance Credit Program.
- Line of Duty Act Fund (VRS is the investment manager of the fund, sets premium rates, determines eligibility and provides plan accounting).

The product lines cover a diverse customer base that includes more than 837 employers, approximately 348,826 active members, 219,113 retirees/beneficiaries, and 159,766 inactive/deferred members.

SCOPE OF SERVICES:

VRS is seeking professional recruiting services to assist in the advertisement of executive-level positions (including but not limited to the areas of Finance, Customer Service, Technology, Public Relations, Human Resources, Compliance, etc.), receipt and screening of applications, and evaluation of candidates. In addition, the Contractor may be required to attend virtual or in-person meetings, as determined by VRS, and provide general advice and support to VRS as needed.

PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

A. GENERAL REQUIREMENTS:

1. IRFP Response: In order to be considered for selection, Offerors must submit a complete response to this IRFP. Please email your response to gbarnes@varetire.org. Please include one complete copy, one copy without the pricing, and, if there is proprietary information in the proposal, a redacted copy. No other distribution of the proposal shall be made by the Offeror.
2. Proposal Preparation:
 - a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in VRS requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by VRS at its sole discretion. Mandatory requirements are those required by law or are such that they cannot be waived and are not subject to negotiation.
 - b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the IRFP. Emphasis should be placed on completeness and clarity of content. Please make every effort to keep the response to 50 pages or less.
 - c. Proposals should be organized in the order in which the requirements are presented in the IRFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the IRFP. It is also helpful to cite the paragraph number, sub-letter, and repeat the text of the requirement as it appears in the IRFP. If a response covers more than one page, the paragraph number and sub-letter should be repeated at the top of the next page. The proposal should contain a table of contents, which cross-references the IRFP requirements. Information that the Offeror desires to present that does not fall within any of the requirements of the IRFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals

that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the IRFP requirements are specifically addressed.

- d. Ownership of all data, materials and documentation originated and prepared for VRS pursuant to the IRFP shall belong exclusively to VRS and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protection of § 2.2-4342(F) of the *Code of Virginia* in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as underlining or highlighting and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document as proprietary or trade secret is not acceptable. **Proposals that do not follow these instructions will not be protected and copies will be provided to outside parties when requested.**
 - f. If your firm is currently engaged in a search for an executive position of a U.S. public pension plan of similar size and complexity as VRS, please list all such engagements. VRS may, at its sole option, determine that such an engagement is a conflict of interests on the part of the firm that would disqualify it from being awarded this Contract.
3. Virtual Presentation: Offerors who submit a proposal in response to this IRFP may be required to give a virtual or in-person presentation of their proposal to VRS, at VRS sole option. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. VRS will schedule the exact time of these presentations.
- B. SPECIFIC PROPOSAL REQUIREMENTS:** Proposals should be as thorough and detailed as possible so VRS may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:
1. The IRFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.
 2. A written narrative statement to include:
 - a. Experience in providing the services described herein.
 - b. Name, qualifications, and experience of personnel to be assigned to the project.
 - c. Résumés of staff to be assigned to the project.

- d. A detailed and comprehensive project plan to include the approach, plan, and schedule with the anticipation that candidates will be available for interviews no later than the first week in November 2021.
3. At least three recent references from similar executive recruitments (preferably from government agencies) of similar size and complexity for which you have provided the services described in this IRFP. References from other public pension plans are preferred. Include dates, services performed, client name, contact person, and telephone number. VRS reserves the right to contact these clients for references.
4. A description of the theory and/or methodology your firm uses for soliciting applications and identifying qualified individuals for the vacant position(s).
5. A statement regarding the steps you may take to attract and identify a diverse applicant pool.
6. A statement detailing any potential conflicts of interest that may arise as a result of your firm providing services for VRS.
7. A discussion of why your firm is uniquely qualified to serve VRS.
8. A discussion of any relevant services that you are unable to perform or that are not included in your cost proposal.
9. A description of your firm's succession plan in the event that any key personnel assigned to VRS become unavailable.
10. A fixed price total cost of the services you will provide. Should you desire a fee arrangement other than a fixed price, please describe in as much detail as possible.
11. Any additional information that you may deem appropriate for VRS' consideration.

EVALUATION CRITERIA AND AWARD:

- A. **EVALUATION CRITERIA:** Proposals shall be evaluated by the Virginia Retirement System using the following criteria:

	EVALUATION CRITERIA	WEIGHT
1.	Experience in conducting executive searches for Pension Plans.	40
2	Implementation of Services/Project Management <ul style="list-style-type: none"> • Project Approach • Project Plan and Schedule • Project Management • Project Team 	25
4	References	10
5	Cost	25

	TOTAL	100
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- B. **AWARD CRITERIA:** The evaluation committee will select no more than two Offerors for interviews. Interviews may be conducted by the evaluation committee. Based on the results of the review, including any interviews, one or more Offerors may be selected for negotiations.

GENERAL TERMS AND CONDITIONS

- A. **VPPA:** This solicitation is subject to the provisions of the Virginia Public Procurement Act (VPPA).
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, Offerors certify to VRS that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1(E)).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this Contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Virginia Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the Contractor's employee handbook.
 - e. The requirements of these provisions 1. and 2. are a material part of the Contract. If the Contractor violates one of these provisions, VRS may terminate the affected part of this Contract for breach, or at its option, the whole Contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific Contract is terminated.
 - f. VRS prohibits discrimination by the Contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, and this prohibition is hereby incorporated in this Contract.
2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written Contract with VRS, the Contractor certifies that the Contractor does not, and shall not during the performance of the Contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- F. **DEBARMENT STATUS:** By participating in this procurement, the Offeror certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Offeror further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If an Offeror is created or used for the purpose of circumventing a debarment decision against another Offeror, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

- G. **ANTITRUST:** By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Contract.

- H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IRFPs:** Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions or Special Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, VRS reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.

- I. **CLARIFICATION OF TERMS:** If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact the Procurement Manager whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by VRS.

J. **PAYMENT:**

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/Contract or via email to AccountsPayable@varetire.org. All invoices shall show the state Contract number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.

- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, VRS shall notify the Contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute.
2. To Subcontractors:
- a. Within seven (7) days of the Contractor's receipt of payment from VRS, a Contractor awarded a Contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
 - b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from VRS, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of VRS.
3. Each prime Contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the Contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages Contractors and subcontractors to accept electronic and credit card payments.

- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF OFFERORS:** VRS may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to VRS all such information and data for this purpose as may be requested. VRS reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. VRS further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy VRS that such Offeror is properly qualified to carry out the obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** VRS reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A Contract shall not be assignable by the Contractor in whole or in part without the written consent of VRS.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the Contract in any of the following ways:
1. The parties may agree in writing to modify the terms, conditions, or scope of the Contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the Contract goods or services, or within the same broad product or service categories as were included in the Contract award. Any increase or decrease in the price of the Contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.
 2. VRS may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes within the scope of the Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt, unless the Contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the Contractor shall, in writing, promptly notify VRS of the adjustment to be sought, and before proceeding to comply with the notice, shall await VRS' written decision affirming, modifying, or revoking the prior written notice. If VRS decides to issue a notice that requires an adjustment to compensation, the Contractor shall be compensated for any additional costs incurred as the result of such order and shall give VRS a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to VRS' right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present VRS with all vouchers and records of expenses incurred and savings realized. VRS shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to VRS within thirty (30) days from the date of receipt of the written order from VRS. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Contract price or time for performance shall be resolved in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by VRS or with the performance of the Contract generally.
- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the Contract terms and conditions, VRS, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which VRS may have.
- Q. **INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the Contract, it will have the following insurance coverage at the time the Contract is awarded. For construction Contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify VRS of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the Contract shall be in noncompliance with the Contract.

2. Employer's Liability - \$100,000.

3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. VRS shall be added as an additional insured to the policy by an endorsement.

R. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a Contract as a result of this solicitation, VRS will publicly post such notice on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

S. **DRUG-FREE WORKPLACE:** During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

T. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or Offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific Contract is not in its best interest. If the award of this Contract is made to a faith-based organization and an individual who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

U. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that VRS shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this Contract.

V. **PRICE CURRENCY:** Unless stated otherwise in the solicitation, offerors shall state offer

prices in US dollars.

- W. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a Contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. A public body may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section. See Attachment A.
- X. CIVILITY IN STATE WORKPLACES:** The Contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the Contractor or any subcontractor in connection with this Contract (each, a “Contract Worker”), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The Contractor shall provide each Contract Worker with a copy of this section and will require Contract Workers to participate in agency training on civility in the State workplace if Contractor’s (and any subcontractor’s) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the Contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this section, “State workplace” includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

VRS may require, at its sole discretion, the removal and replacement of any Contract Worker who VRS reasonably believes to have violated this section.

This section creates obligations solely on the part of the Contractor. Employees or other third parties may benefit incidentally from this section and from training materials or other communications distributed on this topic, but the parties to this Contract intend this section to be enforceable solely by VRS and not by employees or other third parties.

SPECIAL TERMS AND CONDITIONS

- A. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the VRS, whichever is sooner. VRS, its authorized agents, and/or state auditors shall have full access to and the right to examine any of these materials during this period.
- B. **CONTRACT PERIOD:** The Contract period shall be for three years from date of award with two one-year renewal options. Services could be provided for multiple recruitments during the contract period. The Contractor would collaborate with VRS for the recruitment of each position until a candidate is selected and accepts the position. Should a candidate accept the position and then change their mind, then Contractor shall continue to work with VRS until a candidate actually reports to work.
- C. **PROPOSAL ACCEPTANCE PERIOD:** Any offer in response to this solicitation shall be valid for 90 days. At the end of the 90 days the proposal may be withdrawn at the written request of the Offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- D. **MINORITY/WOMEN OWNED BUSINESSES SUBCONTRACTING AND REPORTING:** Where it is practicable for any portion of the awarded Contract to be subcontracted to other suppliers, the Contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the Purchasing Manager. When such business has been subcontracted to these firms and upon completion of the Contract, the Contractor agrees to furnish the Purchasing Manager the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.
- E. **SUBCONTRACTS:** No portion of any resulting Contract shall be subcontracted without prior written consent of VRS. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish VRS the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
- F. **CANCELLATION OF CONTRACT:** VRS reserves the right to cancel and terminate any resulting Contract, in part or in whole, without penalty, upon 60 days' written notice to the Contractor. In the event the initial Contract period is for more than 12 months, the resulting Contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 days' written notice to the other party. Any Contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- G. **DISPUTES/CLAIMS:** Written notice of the Contractor's intention to file a claim whether for money or other relief, must be given at the time of the occurrence or beginning of the work upon which the claim is based. Contractual claims whether for money or other relief shall be submitted in writing no later than sixty days after final payment. Nothing herein

shall preclude a Contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment. A Contractor may not institute legal action prior to receipt of the purchasing office's decision on the claim unless that office fails to render such decision within thirty (30) days. The decision of the purchasing office shall be final and conclusive unless the Contractor, within six months of the date of the final decision on the claim, institutes legal action as provided in the *Code of Virginia*, § 2.2-4364.

- H. **CONFIDENTIALITY:** The Contractor agrees to hold in confidence any information obtained by its agents, employees, representatives, and independent contractors in the performance of this Contract. The Contractor further agrees that it will not directly or indirectly disclose, communicate, divulge, furnish to, or use for the benefit of itself or any other person, firm, or entity any of the data, information, know-how or ongoing VRS considerations that are obtained under this Contract.
- I. **CORPORATE STATUS AND AUTHORIZATION:** The Contractor warrants and represents as follows:
- a. It is lawfully organized and constituted under all applicable federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
 - b. It has the legal authority and capacity to enter into and perform this Contract.
 - c. It has been duly authorized to operate and to do business in all places where it will be required to conduct business under this Contract, including the Commonwealth of Virginia, and that it has obtained, at no cost to VRS, all necessary licenses and permits required in connection with this Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the performance of this Contract.
 - d. It has no present interest in nor shall it acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- J. **RELATIONSHIP OF THE PARTIES:** The relationship of the Contractor to VRS in the performance of the duties and obligations set forth in this contract shall be that of an independent contractor, not a VRS employee.
- K. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, VRS, its officers, agents and employees from any claims, damages, expenses (including reasonable attorney's fees) and actions of any kind or nature, whether at law or in equity, arising from or caused solely by Contractor's gross negligence or willful misconduct, in connection with any services furnished by Contractor.
- L. **NO WAIVER:** Nothing in this Contract shall be deemed or construed as an express or implied waiver of the sovereign immunity of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth of Virginia. Failure of either party to this Contract to object to or to take affirmative action with respect to any conduct of the

other that is in violation of the terms of this Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

- M. **HEADINGS:** All section headings contained in this Contract are for the sole purpose of clarification and convenience of reference and are not intended to limit or expand the scope of any provision of this Contract.
- N. **VIRGINIA FREEDOM OF INFORMATION ACT:** The Contractor acknowledges that VRS is a “public body” under the Virginia Freedom of Information Act (“VFOIA”), Va. Code §§ 2.2-3700, et seq., and that all documents, notes, emails and other forms of communication in the custody or control of VRS, including those sent to VRS by outside entities, are subject to production under VFOIA upon request, subject only to any applicable exemptions under VFOIA.
- O. **SEVERABILITY:** A determination by a court of competent jurisdiction that any portion of this Contract is invalid or unenforceable shall have no effect on the validity or enforceability of the remaining portions of the Contract.
- P. **NO THIRD PARTY BENEFICIARIES:** This Contract is solely for the benefit of the Contractor and VRS and shall not be construed as conferring any rights on any third party.
- Q. **REPRESENTATION BY COUNSEL:** VRS and the Contractor acknowledge that each party to this Contract has been represented by counsel or has had the opportunity to review this Contract with counsel. Accordingly, any rule of law or any legal decision that would require the interpretation of any claimed ambiguities in this Contract against the drafting party has no application and any such right is expressly waived.
- R. **CHANGE OF FINANCIAL CONDITION; BANKRUPTCY; LITIGATION DISCLOSURE:**
1. If, during the term of this Contract, Contractor experiences a material adverse change in financial condition, VRS must be notified in writing at the time the change occurs, or as soon thereafter as is reasonably possible.
 2. In the event: 1) Contractor files for protection or reorganization or 2) a petition for involuntary bankruptcy is filed against Contractor under the United States Bankruptcy Code, VRS may determine that it will require periodic financial reports and operational reports from Contractor. Contractor shall supply all reports requested by VRS within a reasonable time, not to exceed ten (10) business days from the date of the request.
 3. Contractor must disclose to VRS, within a reasonable time, any regulatory restrictions, consent orders, stipulations or litigation to which Contractor, any related entity, or any of its principals, owners, directors or officers is or becomes a party, that would materially and adversely affect Contractor’s ability to provide the services required under this Contract.

- S. **COUNTERPARTS:** This Contract may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. To facilitate the expedited finalization of this Contract, it is understood and agreed by the parties hereto that (i) delivery of an executed copy thereof by facsimile or as a “pdf” file attached to an e-mail shall be binding to the same extent as delivery of the executed original itself, and (ii) if an executed copy of this Contract is delivered via facsimile or as a “pdf” file, then the executed original(s) shall, thereafter, be promptly delivered.

METHOD OF PAYMENT

The final invoice for all work accomplished under any resultant Contract should be submitted to the VRS accounts payable office at the following address:

Virginia Retirement System
Attn: Accounts Payable
P.O. Box 2500
Richmond, VA 23218-2500

Or by email to accountspayable@varetire.org.

PRICING SCHEDULE

Please provide a bottom line price for this engagement as described in the Specific Proposal Requirements above.

NOTE CONCERNING TRAVEL EXPENSES: VRS will reimburse the Contractor for reasonable travel expenses that are pre-authorized by VRS and are related to the Contract.

Attachment A

COMPLETE THIS FORM AND RETURN WITH YOUR PROPOSAL

**State Corporation Commission Form
AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH**

Virginia State Corporation Commission (“SCC”) registration information: The undersigned Offeror:

☐ is a corporation or other business entity with the following SCC identification number:

_____ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from Offeror’s out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this proposal an opinion of legal counsel which accurately and completely discloses the undersigned Offeror’s current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the *Code of Virginia*.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver): ☐

Signature: _____ **Date:** _____

Name: _____
Print

Title: _____

Name of Firm: _____