REQUEST FOR PROPOSALS (RFP)

RFP Number: DEV13OOE02

The Ohio Development Services Agency, Office of Energy, is requesting proposals for:

Energy Loan Fund Financial Consultant

RFP Issued: June 5, 2013
Inquiry Period Begins: June 5, 2013
Inquiry Period Ends: June 13, 2013
Proposals Due: June 18, 2013 at 2:00 p.m.

Submit Proposals via e-mail to:

David Jende, Agency Procurement Officer
Ohio Development Services Agency
Budget & Finance Office
Procurement@development.ohio.gov
(614) 466-0419

This RFP consists of five parts and two attachments, totaling twenty-seven consecutively numbered pages. Please verify that you have a complete copy.

Please submit all inquiries about this RFP through the State Procurement web site at www.ohio.gov/procure. Please refer to Part Three of this RFP, "General Instructions", for instructions on submitting inquiries through the State Procurement web site. All responses to inquiries submitted by Proposers will be posted on the State Procurement website for viewing by all prospective Proposers.

Ohio | Development Services Agency

PART ONE: SERVICES REQUESTED INFORMATION

PURPOSE

The Ohio Development Services Agency (DSA), Office of Energy is soliciting proposals from a qualified financial consultant to assist in implementing and executing the Energy Loan Fund (ELF) and the Alternative Fuels Transportation Loan Fund (AFT). Qualified Applicants must be able to conduct a financial review of applicants, assist in developing loan processes, assist with the structuring of financial transactions and provide financial training to the Office of Energy Staff. DSA may award 1-2 contracts under this solicitation.

BACKGROUND

To stimulate the demand for the renewable energy and energy efficiency industries in Ohio to gain investment, attract and retain jobs, and achieve environmental benefits, the Office of Energy provides financial incentives to businesses, communities, and residential customers to deploy energy efficient and renewable energy technologies.

The Office of Energy administers the Energy Loan Fund and the Alternative Fuels Transportation Fund, which provide financing through federal and state funding resources to eligible entities for energy efficiency, renewable energy, and alternative fuel projects.

Through the Alternative Fuels Transportation Loan program, the Office of Energy provides financial incentives to businesses, schools, local governments and not for profits, to purchase or convert vehicles for alternative fuels, install alternative fuel refueling infrastructure and distribution terminals. The goals of this program are to improve air quality, increase the use and availability of alternative fuels, improve the alternative fueling infrastructure, increase the resilience of Ohio's alternative fuels supply chain, and educate the public on the use of alternative fuels. Projects funded under the AFT must be related to alternative fuels must demonstrate cost savings and market demand, as well as a minimum payback period. State funding is available through the Advanced Energy Fund and the Alternative Fuels Transportation Fund, which is authorized by sections 4928.61 to 4928.63 and 122.075 of the Ohio Revised Code.

The Office of Energy administers the Energy Loan Fund which helps to fund energy efficiency and renewable energy projects. Projects funded under the Energy Loan Fund must demonstrate a reduction in energy usage and associated costs, avoidance of fossil fuel emissions, and the creation or retention of jobs. Eligible entities include businesses, schools, local governments and not for profits. Federal funding for projects selected through the Energy Loan Fund is available through the U.S. Department of Energy's State Energy Program. Authorization for the State Energy Program is under 10 CFR Part 420. State funding is available through the Advanced Energy Fund, which is authorized by sections 4928.61 to 4928.63 of the Ohio Revised Code.

Additional information on the programs offered by the Office of Energy is available at the following website: http://development.ohio.gov/bs/bs_renewenergy.htm

SCOPE OF WORK

The final scope of services will be negotiated at the time of selection. Qualified candidates must be able to do (but not limited to) the following:

A. Alternative Fuels Transportation Fund Reviews
- Review loan applications to determine suitability of a project for AFT financing. This includes, but is not limited to, information supporting the project's business plan or payback period;
- Perform financial due diligence reviews, including preparing and analyzing financial statements and preparing written financial summaries of applicants;
- Discuss loan terms and structure that best suits the interest of the state and borrower with DSA staff;
- Assess additional qualities of applicant, including an applicant's history, financial position, management team, sales methods, ownership and succession plans;
- Prepare DSA's draft financial term sheet which outlines all of the terms of potential loan transactions, including term, interest rate, capitalized interest period and loan amortization;
- Assist in the negotiation of the terms of the proposed loan; and
- Work with DSA staff to address any problems, issues or modifications related to the project financing.

B. Energy Loan Fund Reviews
- Review loan applications to determine suitability of a project for Energy Loan Fund financing;
- Perform financial due diligence reviews, including preparing and analyzing financial statements and preparing written financial summaries of applicants;
- Discuss loan terms and structure that best suits the interest of the state and borrower with DSA staff;
- Assess additional qualities of applicant, including an applicant's history, financial position, management team, sales methods, ownership and succession plans;
- Prepare DSA's draft financial term sheet which outlines all of the terms of potential loan transactions, including term, interest rate, capitalized interest period and loan amortization;
- Assist in the negotiation of the terms of the proposed loan; and
- Work with DSA staff to address any problems, issues or modifications related to the project financing.

C. Technical Services

- Assist DSA staff in creating, when necessary, specialized financial structures;
- Develop financial tracking performance metrics that will aid in both project evaluation and program performance;
- Assist in training DSA's Staff on the financial review process and application evaluation. This should include at a minimum, financial due diligence review training, deal structuring and risk analysis; and
- Provide recommendations on program and process improvements.

PROPOSAL REQUIREMENTS

In no more than thirty (30) pages firms choosing to respond to this RFP are asked to format their proposal(s) within the following order and content:

1. Introduction to the individual or organization, applying for the proposal, identification and description of the project manager, and primary contact information.
2. Description of the background and experience of each individual or organization's team members participating in the proposal and who would work under any executed contract with Development.
3. Description of experience with the aforementioned public loan programs and/or credit underwriting with specific reference to projects and the personnel who worked with and related projects with references.
4. Description of experience with energy or transportation related projects.
5. Cost presentation based on cost per project and cost for additional services. The table provided below must be completed.

Category	**Cost**
Project Total Dollar Amount	Cost per Loan Fund Project Review
Under $100,000	
$100,000-$500,000	
$500,000-$750,000	
$750,000-$1,000,000	
Projects above $1,000,000	
Category	**Cost**
Anticipation of Additional Fees (please list)	
Cost per hour for technical services	
Total	

7. Any additional relevant information that will differentiate your organization from other applicants.

8. Proposers must provide affirmation that they will comply with Ohio Ethics Laws to the extent applicable and will not provide services in connection with grant proceeds that result from a proposal evaluated by the proposer(s). **Proposers must also provide a - signed Affirmation and Disclosure form included in Appendix 2 of this RFP.**

No Contract Funds May be Spent Offshore

Executive Order 2011-12K "Governing the Expenditure of Public Funds for Offshore Services" prohibits the use of any public funds within the control of an executive agency to purchase services which will be performed outside of the United States.

To be considered by the Ohio Development Services Agency, a bid response must be accompanied by an Affirmation and Disclosure in the form attached to this RFP and a signed Standard Terms and Conditions Form (Appendix 2). Both of these forms must be signed at the end by an authorized representative of the proposer. Any bid response received that does not include a completed, signed copy of this form will be immediately disqualified.

A copy of the Executive Order and the Affirmation and Disclosure form are included in this RFP on the following pages. Additional information about the Executive Order is posted on the Department of Administrative Services State Procurements Help & Reference page at http://procure.ohio.gov/pdf/EO201112K/EO201112K_Announcement.pdf.

JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2011-12K

Governing the Expenditure
of Public Funds for Offshore Services

WHEREAS, State of Ohio officials and employees must remain passionately focused on initiatives that will create and retain jobs in the United States in general and in Ohio in particular, and must do so especially during Ohio's continuing efforts to recover from the recent recession.

WHEREAS, allowing public funds to pay for services provided offshore has the potential to undermine economic development objectives in Ohio.

WHEREAS, the expenditure of public funds for services provided offshore may deprive Ohioans and other Americans of critical employment opportunities and may also undermine efforts to attract businesses to Ohio and retain them in Ohio, initiatives in which this State has invested heavily.

NOW THEREFORE, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and the laws of this State, do hereby order and direct that:

1. No State Cabinet Agency, Board or Commission ("Executive Agency") shall enter into any contract which uses any public funds within its control to purchase services which will be provided outside the United States. This Executive Order applies to all purchases of services made directly by an Executive Agency and services provided by subcontractors of those providing services purchased by an Executive Agency.

2. This Executive Order will be personally provided, by the Director, Chair or other chief executive official of each Executive Agency, to the Chief Procurement Officer or other individual at that entity responsible for contracts for services.

3. The Department of Administrative Services, through Ohio's Chief Procurement Officer, shall have in place, by July 1, 2011, procedures to ensure all of the following:

    a. All agency procurements officers (APOs), or the person with equivalent duties at each Executive Agency, have standard language in all Executive Agency contracts which:

        i. Reflect this Order's prohibition on the purchase of offshore services.

ii. Require service providers or prospective service providers to:

1. Affirm that they understand and will abide by the requirements of this Order.
2. Disclose the location(s) where all services will be performed by any contractor or subcontractor.
3. Disclose the locations(s) where any state data associated with any of the services they are providing, or seek to provide, will be accessed, tested, maintained, backed-up or stored.
4. Disclose any shift in the location of any services being provided by the contractor or any subcontractor.
5. Disclose the principal location of business for the contactor and all subcontractors who are supplying services to the state under the proposed contracts.

b. All APOs confirm that all quotations, statements of work, and other such proposals for services affirm this Order's prohibition on the purchase of offshore services and include all of this Order's disclosure requirements.

i. Any such proposal for services lacking the affirmation and disclosure requirements of this Order will not be considered.
ii. Any such proposal where the performance of services is proposed to be provided at a location outside the United States by the contractor or any subcontractor will not be considered.

c. All procurement manuals, directive, policies, and procedures reflect the requirements of this Order.

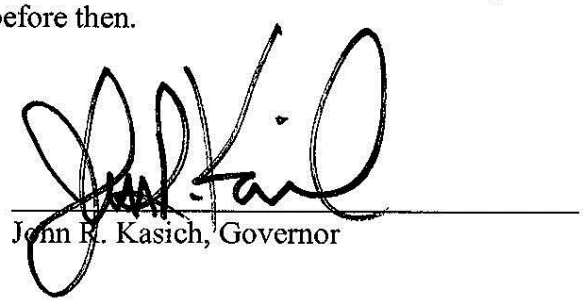
d. All APOs have adequate training which addresses the terms of this Order.

4. Nothing in this Order is intended to contradict any state or federal law. In addition, this Order does not apply to:

a. Services necessary to support the efforts of the Department of Development to attract jobs and business to the state of Ohio;
b. Academic, instructional, educational, research or other services necessary to support the international missions of Ohio's public colleges and universities; or
c. Situations in which the Director of the Department of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive some or all of the requirements of this Order. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of this Order and by which such requests will be evaluated and may be granted.

5. Executive Order 2010-09S is hereby rescinded.

I signed this Executive Order on June 21, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.



John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State

PART TWO: STRUCTURE OF THIS RFP

PARTS

Part One	Services Requested Information
Part Two	Structure of this RFP
Part Three	General Instructions
Part Four	Evaluation of Proposals
Part Five	Contract Award

ATTACHMENTS

Appendix 1 – DSA's Standard Agreement for Services

- DSA's standard, or boilerplate, personal service contract document, including terms and conditions
- This sample document is provided only for convenience and the terms and conditions contained therein are subject to change without notice

Appendix 2 – Standard Affirmation and Disclosure Form, Standard Terms and Conditions

- Standard Affirmation and Disclosure Form must be signed by an authorized official of Proposer's organization and must be included for any proposal to be scored

PART THREE: GENERAL INSTRUCTIONS

The following sections provide a calendar of events, details on how to respond to this RFP and how to get more information about this RFP. All responses must be complete and in the prescribed format.

CALENDAR OF EVENTS & ON-LINE INFORMATION

The schedule for this RFP is given below and is subject to change. DSA may change this schedule at any time. If DSA changes the schedule before the Proposal Due Date, it will do so through an announcement on the State Procurement web site area for this RFP at the following link: http://procure.ohio.gov/proc/index.asp. The web site announcement will be followed by an addendum to this RFP, which also will be made available through the same State Procurement web site.

It is each prospective Proposer's responsibility to check the State Procurement web site's question-and-answer area for this RFP for current information and the calendar of events scheduled through award of any contract.

Other than by adherence to the RFP Inquiry process, set forth below, no contact related to this RFP shall be made with DSA until a contract award is announced. Notwithstanding this prohibition, DSA, at its sole discretion, may request additional information as part of the review process outlined below.

Firm Dates

RFP Issued:	June 5, 2013
Inquiry Period Begins:	June 5, 2013
Inquiry Period Ends:	June 13, 2013
Proposal Due Date:	June 18, 2013 by 2:00 p.m.

Estimated Dates

Contract Award Notification:	Summer, 2013
Issuance of Purchase Order:	On or after July 1, 2013

PROPOSAL SUBMITTAL

Proposals must be submitted in the following manner:

- **Proposals must be submitted via e-mail by no later than June 18, 2013 by 2:00 p.m. to Procurement@development.ohio.gov.**
- Proposals are to be submitted on 8.5 x 11-inch paper.
- Margins must not be less than ¾ of an inch on all sides.
- Font must be 10 point or larger with no more than 6 lines of text per inch.
- Proposals should be no more than 30 pages in length.
- All pages must be numbered consecutively using the format "Page [#] of [total number of pages]" (e.g., Page 2 of 20).

Proposers are advised there will be no opportunity to correct mistakes or deficiencies in their submitted materials after the Proposal Due Date. Proposals that are incomplete or otherwise missing required information may not be evaluated.

It is the Proposer's responsibility to ensure timely submission of a complete Proposal. Late Proposals

will not be scored. DSA is under no obligation to consider a Proposal which is received after the Proposal Due Date or that is incomplete. Proposals that are not submitted in the format requested will not be scored.

No supplementary or revised materials will be accepted after the Proposal Due Date unless specifically requested by DSA.

All costs incurred in the preparation of the Proposal shall be borne by the Proposer alone, and DSA shall not contribute, in any way, to the cost of the preparation of the Proposal.

Any and all documents developed by the Proposer during the course of this project will be provided to DSA upon request and will become the property of DSA, and the Proposer shall not assert any claims arising under copyright or otherwise inconsistent with the transfer of ownership of such documents.

All information submitted in response to this RFP shall be a public record unless a statutory exception exists that would protect the information from release to the public. Any information submitted with the Proposal which the Proposer reasonably believes to be a trade secret, as that term is defined in Section 1333.61 of the Ohio Revised Code, may be designated as such by marking the information as follows: the phrase "trade secret," marked with two asterisks on each side, must be placed at the beginning and end of the trade secret information (example: ** TRADE SECRET **). In addition, the trade secret information shall be underlined. Information determined to be a trade secret under the laws of the State of Ohio may be protected as trade secrets by DSA in accordance with Ohio law.

DSA reserves the right to:

- Accept or reject any and all Proposals and/or bids if Development determines that it is in the best interests of the State to do so.
- Rebid this RFP, requesting new Proposals from qualified firms.
- Waive or modify minor irregularities in Proposals received.
- Negotiate with Proposer(s), within the requirements of this RFP, to best serve the interests of the State of Ohio.
- Require the submission of modifications or additions to Proposals as a condition of further participation in the selection process.
- Fund any Proposal in full or in part; any assignments of work by DSA under the scope of this RFP will be made dependent on need and the availability of adequate, specific funding.
- Not make an award at the end of the evaluation process; this RFP is not to be interpreted or construed to guarantee that one or more Proposers submitting responses will be awarded contracts.
- Adjust the RFP Calendar of Event dates for whatever reason it deems appropriate.
- Contact Proposer to clarify any portion of the Proposer's submittal.

If, during the review process, DSA determines that it is necessary to make further distinctions between certain Proposers, DSA may request certain selected Proposers to make a presentation to staff and reviewers.

In accordance with federal and state statutes and DSA policy, no person shall be excluded from participation or subject to discrimination in the RFP process on the basis of race, color, age, sex, national origin, military status, religion, or disability.

INQUIRIES

Prospective Proposers may make inquiries or seek clarifications regarding this RFP any time during the inquiry period listed in the RFP Calendar of Events. To make an inquiry, prospective Proposers must use the following process:

1. Access the State Procurement web site at http://www.ohio.gov/procure.
2. From the Navigation Bar on the left, select "Find it Fast."
3. Select "Doc/Bid/Schedule #" as the Type.
4. Enter the RFP Number found on Page 1 of this document.
5. Click the "Find It Fast" button.
6. On the document information page, click the "Submit Inquiry" button.
7. On the document inquiry page, complete the required "Personal Information" section by providing the following:
    a. First and last name of the prospective Proposer's representative who is responsible for the inquiry;
    b. Name of the prospective Proposer;
    c. Representative's business phone number; and
    d. Representative's e-mail address.
8. Type the inquiry in the space provided, making certain to include the following:
    a. A reference to the relevant part of this RFP;
    b. The heading for the provision under question; and
    c. The page number of the RFP where the provision can be found.
9. Click the "Submit" button.

Prospective Proposers submitting inquiries will receive an immediate acknowledgement by e-mail that their inquiry has been received. **The prospective Proposer who submitted the inquiry will not receive an e-mail response to the question, but will need to view the response on the State Procurement web site where it will be posted for viewing by all prospective Proposers.**

Prospective Proposers may view inquiries using the following process:

1. Access the State Procurement web site at http://www.ohio.gov/procure.
2. From the Navigation Bar on the left, select "Find it Fast."
3. Select "Doc/Bid/Schedule #" as the Type.
4. Enter the RFP Number found on Page 1 of this document.
5. Click the "Find It Fast" button.
6. On the document information page, click the "View Q & A" button to display all inquiries with responses submitted to date.

DSA will try to respond to all properly posed inquiries within 48 hours, excluding weekends and state holidays. DSA will not respond to any inquiries received after 8:00 a.m. on June 13, 2013. Prospective Proposers who attempt to seek information or clarifications verbally will be directed to reduce their questions to writing in accordance with the terms of this RFP and state purchasing policy. No other form of communication is acceptable, and use of any other form of communication or any attempt to communicate with DSA staff or any other agency of the State to discuss this RFP may result in the Proposer being deemed ineligible.

PART FOUR: EVALUATION OF PROPOSALS

EVALUATION PROCESS

DSA's evaluation process of responses submitted to this request may consist of up to four distinct phases:

1. DSA's initial review of all proposals for timely submission;
2. An evaluation committee review of the proposals for defects and scoring;
3. DSA's request for more information (clarifications, interviews, presentations, and/or demonstrations); and,
4. Negotiations or best offer requests.

At its sole discretion, DSA will determine whether phases three and/or four are necessary under this RFP, reserving for itself the ability to eliminate or add phases three or four at any time during the evaluation process. DSA may add or remove sub-phases to phases 2 through 4 at any time if DSA believes doing so will improve the evaluation process.

PROPOSAL EVALUATION CRITERIA

In the proposal evaluation phase, Development staff or reviewers selected by Development (the committee) will rate the proposals submitted in response to this RFP based on the following criteria and weight assigned to each criterion.

Evaluation Criteria	Weight
Knowledge and Experience: • Demonstrated experience with public loan programs • Knowledge of energy or transportation industries • Underwriting experience • Experience in structuring financial transactions	Up to 50 points
Cost Effectiveness • Per project • Additional fees to be charged • Per hour of technical services	Up to 40 points
Training Expertise	Up to 10 points
Total:	**100 points Maximum**

PART FIVE: CONTRACT AWARD

CONTRACT AWARD PROCESS

It is DSA's intention to award one or more contracts under the scope of this RFP and as based on the RFP Calendar of Events schedule, so long as DSA determines that doing so is in the State's best interests and DSA has not otherwise changed the award date.

Any award decision by DSA under this RFP is final. After DSA makes its decision under this RFP, all Proposers will be notified (in writing or by phone, at DSA's discretion) of the final evaluation and determination as to their Proposals.

DSA will issue a notice of contract award to the selected Proposer(s), and finalized contract terms and conditions will be forwarded for signature. Once three executed copies of the contract are submitted by the Proposer(s), and pending any further approvals that may be required (e.g., State Controlling Board), DSA will fully execute the contract.

Once the contract is fully executed, DSA will issue to the Proposer(s) one (1) copy of the signed instrument for its/their files.

Unless otherwise negotiated and included in the executed contract/scope of work, the selected vendor(s) shall be bound by all outlined services, policies and procedures as contained in the vendor's submitted and evaluated proposal.

NUMBER OF AWARDS

DSA anticipates making at least one award depending on programs' needs and the fit of the Proposer(s) to the scope of this RFP.

FUNDING APPROVAL THRESHOLD

In the event that contractual expenditures with the selected Proposer(s) will exceed $50,000 in spending under any contract that results from this RFP, or that otherwise exceed $50,000 in aggregate spending across all contracts between the Proposer and DSA, the contract will be subject to the approval of the State of Ohio Controlling Board.

Appendix 1:

DSA's Standard Agreement for Services

This sample document is provided only for convenience and the terms and conditions contained herein are subject to change without notice.

AGREEMENT FOR SERVICES

This Agreement for Services ("**Agreement**") is made and entered into by and between the **State of Ohio, Development Services Agency** ("**Sponsor**"), and _____("**Contractor**"). This Agreement shall have Ohio Development Services Agency Agreement Control Number of _____

1. Statement of Work. Contractor shall undertake and complete the work and activities set forth in Exhibit I, "Scope of Work," which is attached hereto, made a part hereof, and incorporated herein by reference as if fully rewritten herein. Contractor shall consult with the personnel of Sponsor and with other appropriate persons, agencies, or instrumentalities as necessary to ensure a complete understanding of the work and satisfactory completion thereof.

2. Sponsor's Instructions. Sponsor may, from time to time as it deems appropriate and necessary, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Agreement. Upon such notice and within a reasonable time, Contractor shall comply with such instructions and fulfill such requests to the satisfaction of Sponsor. It is expressly understood by the parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement. However, they are not intended to amend or alter the terms of this Agreement or any part thereof.

3. Term and Location of Performance.

(a) Term. This Agreement shall be binding upon both parties, and the work described in this Agreement shall commence on _____ and all activities under this Agreement shall be completed not later than _____, on which date this Agreement shall expire. In the event that the work hereunder is to be done in separate phases, each phase shall be completed within the time prescribed in Exhibit I.

(b) Location of Performance. Contractor affirms that it has read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich, that it shall abide by those requirements in the performance of this Agreement, and that it shall perform no services required under this Agreement outside of the United States. This Executive Order can be found online at:

http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf.

(c) Change of Performance Location. Contractor also affirms, understands, and agrees to immediately notify Sponsor of any change or shift in the location(s) of services performed by Contractor or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) outside of the United States.

4. Compensation. In consideration of the promises of Contractor herein, Sponsor agrees to pay Contractor at the rates set forth in Exhibit I on a reimbursement basis upon Sponsor's receipt and approval of proper invoices. Contractor shall not be compensated for services rendered hereunder except as expressly set forth herein. The total compensation to be paid to Contractor under this Agreement shall not exceed _____ Thousand and No/100 Dollars ($_____,000.00).

5. Proper Invoicing Method. Contractor shall be required to submit proper invoices that are itemized and show all of the following:

(a) Performance of the service described in Exhibit I;
(b) Date or dates of the rendering of the service;

(c) An itemization of the things or service done, the material supplied or the labor furnished; and
(d) The sum due pursuant to that invoice in relation to the total compensation owed under the Agreement.

The adequacy and sufficiency of such invoices shall be determined solely by Sponsor. If Sponsor determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required for a particular invoice, the burden of providing the required information or documentation is on Contractor. Costs incurred by Contractor which are associated with providing the required additional information or documentation and costs which are related to defending an inadequate or insufficient invoice shall not be charged to Sponsor and shall not be considered an allowable expense under this Agreement. Failure to comply with this section shall delay payment to Contractor under this Agreement.

6. Contractor's Expenses. Contractor shall solely be responsible for all office, business, and personnel expenses associated with the performance of this Agreement.

7. Permissible Expenses. If "travel expenses," as defined in Ohio Administrative Code Section 126-1-02, are a cost of the Project eligible for reimbursement, Contractor shall be reimbursed for those permissible travel expenses in amounts in accordance with Ohio Administrative Code Section 126-1-02, as updated from time to time (the "Expense Rule) and Contractor agrees that it shall not be reimbursed and Sponsor shall not pay any items that are deemed to be "non-reimbursable travel expenses" under the Expense Rule, whether purchased by the Contractor or Sponsor or their respective employees or agents.

8. Termination.

(a) General. Sponsor may terminate this Agreement upon thirty (30) days written notice to Contractor if Sponsor determines that the product or services to be provided as further described in Exhibit I is inadequate for the intended use or cannot be feasibly adapted for the intended use. In addition, either Sponsor or Contractor may terminate this Agreement for just cause upon thirty (30) days written notice to the other party. Upon notice of termination, Contractor shall cease all work under this Agreement and shall take all necessary or appropriate steps to limit disbursements and minimize costs in ceasing all work. Contractor shall be required to furnish a report setting forth the status of all activities under the Agreement including, but not limited to, the work completed and the payments received by Contractor and such other information as Sponsor may require. Subject to any claim for damages arising from Contractor's breach, Contractor shall be entitled to compensation for work completed through the date Contractor received notice of termination upon submission and approval of proper documentation or invoices.

(b) Services Performed Outside the U.S.

(i) Sponsor is not obligated and shall not pay for any services provided under this Agreement that Contractor or any of its subcontractors performed outside of the United States. If services are performed outside of the United States, such activities will be treated as a material breach of this Agreement, and Contractor shall immediately return to Sponsor all funds paid for those services.

(ii) In addition, if Contractor or any of its subcontractors perform any such services outside of the United States, Sponsor may, at any time after the breach, terminate this Agreement for such breach, upon written notice to Contractor. If Sponsor terminates the Agreement, Sponsor may buy substitute services from a third party, and Sponsor may recover the additional costs associated with acquiring the substitute services.

(iii) If Contractor or any of its subcontractors prepares to perform services or changes or shifts the location(s) of services performed by Contractor or its subcontractors under this Agreement to a location(s) outside of the United States, but no services are actually performed outside of the United

States, Contractor shall promptly, but in no event later than 10 days, change or shift the location(s) of services performed to location(s) within the United States. Sponsor may recover liquidated damages in the amount of 1% of the value of the contract for every day past the time permitted to change or shift the location(s) to the United States.

9. Records Maintenance and Access.

(a) Maintenance of Records. Contractor shall establish and maintain for at least three (3) years after the last day of the Term of the Agreement or earlier termination of this Agreement its records regarding this Agreement, including, but not limited to, financial reports, job creation and retention statistics, and all other information pertaining to Contractor's performance of its obligations under this Agreement. Contractor also agrees that any records required by Sponsor with respect to any questioned costs, audit disallowances, litigation or dispute between Sponsor and Contractor shall be maintained for the time needed for the resolution of such question or dispute.

(b) Inspection and Copying. At any time during normal business hours and upon not less than twenty-four (24) hours prior written notice, Contractor shall make available to Sponsor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement which are in the possession or control of Contractor, including, but not limited to, records of personnel. Sponsor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records, and any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with the normal business operations of Contractor. Contractor shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this Section 9(b) from Contractor's other records of operation.

10. Certification of Funds. It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the Ohio Revised Code, including but not limited to section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that federal funds are used, until such time that Sponsor gives Contractor written notice that such funds have been made available to Sponsor by Sponsor`s funding source. Sponsor shall provide Contractor with written evidence of the Controlling Board action within 30 days after the date on which the Controlling Board considered the appropriation request.

11. Equal Employment Opportunity. Pursuant to Ohio Revised Code Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement. Contractor further agrees that Contractor, any subcontractor and any person acting on behalf of Contractor or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability, military status, national origin or ancestry. Contractor represents that it has a written affirmative action program for the employment and effective utilization of disadvantaged persons and will file a description of that program and a progress report on its implementation with the equal employment opportunity office of the Ohio department of administrative services.

12. Indemnification. Contractor agrees to indemnify and to hold the Sponsor and State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement and Contractor's performance of the obligations or activities in furtherance of the Project which are attributable to the Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Contractor, or joint venturers while acting under this Agreement. Such

claims shall include, but are not limited to, any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks. Contractor shall bear all costs associated with defending the Sponsor and the State of Ohio against any claims. Notwithstanding the foregoing, Contractor's obligation to indemnify and hold Sponsor and the State of Ohio harmless shall be limited to actions and omissions which constitute gross negligence or violations of law and in no event shall the aggregate liability of the Contractor to the Sponsor or the State of Ohio for indemnification under this Agreement exceed the amount of compensation paid to the Contractor hereunder.

13. Conflict of Interest. No personnel of Contractor or personnel of any subcontractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Contractor shall immediately disclose in writing to Sponsor any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily. Sponsor shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to Sponsor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Sponsor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

14. Drug-Free Workplace Compliance. In the event that work performed pursuant to the terms of this Agreement will be done while on state property, Contractor hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

15. Adherence to State and Federal Laws, Regulations.

(a) General. Contractor agrees to comply with all applicable federal, state, and local laws related to the Contractor's performance of the obligations of this Agreement. The Contractor accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the requirements of this Agreement.

(b) Ohio Ethics Laws. In accordance with Executive Order 2011-03K, Contractor, by its signature on this document, certifies: (1) it has reviewed and understands Executive Order 2011-03K, (2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 *et seq*., §§ 2921.01, 2921.42, 2921.421 and 2921.43, and §§ 3517.13(I) and (J), and (3) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Contractor understands that failure to comply with the Ohio ethics and conflict of interest laws, is in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

(c) Ohio Elections Law. Contractor affirms that, as applicable to Sponsor, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of $1,000.00 to the Governor or to his campaign committees.

16. Unresolved Findings. Contractor warrants that it is not subject to an unresolved finding for recovery under O.R.C. 9.24. If this warranty is deemed to be false, this Agreement is void *ab initio* and the

Contractor must immediately repay to the Sponsor any funds paid under this Agreement.

17. Employees Not State Employees/Employee Acknowledgements. Contractor acknowledges and agrees that, consistent with the provisions of ORC Sections 124.01(F) and 145.012, its employees are not and shall not be deemed to be "public employees" as defined in ORC Section 145.01(A). In furtherance thereof, if Contractor has less than 5 employees, Contractor agrees to have each of its employees execute an acknowledgement to that effect and obtain from each of its employees their consent to provide copies to Sponsor or the Ohio Public Employees Retirement System, upon the written request of either of them.

18. Confidentiality. As used herein, "Confidential Information" means any and all information **provided in any form from one party to the other party which is, by its nature, information that a prudent** business person would maintain as confidential. Such information includes proprietary information, trade secret information and "Personal information" as described in Ohio Rev. Code Sec. 1347.01(E). Ohio Rev. Code Sec. 1347.01(E) provides: "Personal Information means any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person." Each party to this Agreement shall use Confidential Information only in connection with the purposes set forth herein. Each party agrees to use reasonable efforts to safeguard Confidential Information. Each party acknowledges that Confidential Information may include personal or proprietary information relating to businesses or individuals. Each party shall use Confidential Information only in connection with the purposes set forth herein. Each party agrees to use reasonable efforts to safeguard Confidential Information and to prevent the unauthorized, negligent or inadvertent disclosure of Confidential Information. "Reasonable efforts" means efforts not less than those the one party employs to protect its own Confidential Information and, in any event, efforts not less than those a prudent business person would take to protect his or her own confidential and proprietary information. No Party shall, without the prior written approval of the other Party, directly or indirectly disclose Confidential Information to any person or business entity except to its own employees and representatives, including, without limitation, attorneys, accountants and financial advisors on a need-to-know basis for the purposes contemplated by this Agreement. Without limiting the generality of the foregoing, if either Party experiences any breach of data security that exposes the Confidential Information to disclosure or unauthorized use, that Party agrees to bear all costs to notify every individual whose Confidential Information may have been compromised and in cases where Grantee experiences that breach of data, Grantee agrees that it shall also hold Grantor harmless from any claim arising from or related to such breach, subject to the limits of liability already set forth in this Agreement.

19. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

(b) Forum and Venue. All actions regarding this Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio.

(c) Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(e) Conflict of Provisions. Should it be determined that a provision within this Agreement conflicts with a provision set forth in Exhibit I, then the language of Exhibit I shall control as being the more specific terms and conditions of the Agreement.

(f) Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

In case of Sponsor, to:

Ohio Development Services Agency
Office of
P.O. Box 1001
Columbus, Ohio 43216-1001
Attention:
Fax No.:
With a copy to Chief Legal Counsel, Ohio Development Services Agency

In case of Contractor, to:

[ADDRESS]
Attention: \
Fax No.:

Notwithstanding the foregoing, ordinary communications regarding the status of services being provided by Contractor may be sent by electronic mail to the designated representatives of Sponsor and Contractor.

(g) Amendments or Modifications. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

(h) Forbearance. No act of forbearance or failure to insist on the prompt performance by Contractor of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Sponsor of any of its rights hereunder.

(i) Pronouns. The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

(j) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(k) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Contractor without the prior express written consent of Sponsor.

IN WITNESS WHEREOF, the parties have executed this Agreement For Services on the last day and year set forth below.

CONTRACTOR:

[CONTRACTOR]

By: _____

Printed Name: _____

Title: _____

Date: _____

SPONSOR:

State of Ohio
Development Services Agency

David Goodman
Director
Ohio Development Services Agency

By: _____

Printed Name: _____

Title: _____

Date: _____

Appendix 2:

Standard Affirmation and Disclosure Form and Standard Terms and Conditions

The Standard Affirmation and Disclosure Form must be filled out and returned with a bid response in order for it to be eligible for scoring.

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

   _____ _____
   (Address) (City, State, Zip)

   Name/Principal location of business of subcontractor(s):

   _____ _____
   (Name) (Address, City, State, Zip)

   _____ _____
   (Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

   _____ _____
   (Address) (City, State, Zip)

   Name/Location where services will be performed by subcontractor(s):

   _____ _____
   (Name) (Address, City, State, Zip)

   _____ _____
   (Name) (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

_____	_____
(Address)	(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: _____
Contractor

Print Name: _____

Title: _____

Date: _____

STANDARD TERMS AND CONDITIONS

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

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The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.