



**National Association of State Auditors, Comptrollers and Treasurers
449 Lewis Hargett Circle, Suite 290
Lexington, Kentucky 40503-3590**

**REQUEST FOR PROPOSALS
RFP NO. 11-01**

PROJECT TITLE: BENCHMARKING AND RELATED CONSULTING SERVICES

Part A. Baseline Measurement and Benchmark Comparisons of State Agency Business Processes

Part B. Benchmark-Related Consulting Services

PROPOSAL DUE DATE: December 28, 2011

EXPECTED TIME PERIOD FOR CONTRACT AND RENEWALS: March 2012 – February 2018

PROPOSER ELIGIBILITY: This procurement is open to those proposers that satisfy the minimum qualifications stated herein and that are available for work in the United States.

TABLE OF CONTENTS

RFP Purpose and Overview	1
Section A – Baseline Measurement and Benchmark Comparisons	1
1. Introduction	1
1.1 Purpose and Background.....	1
1.2 Objective	3
1.3 Minimum Qualifications	3
1.4 Funding	4
1.5 Period of Performance	4
1.6 Definitions.....	4
2. General Information for Proposers	5
2.1 RFP Coordinator	5
2.2 Estimated Schedule of Procurement Activities	5
2.3 Submission of Proposals.....	5
2.4 Proprietary Information/Public Disclosure.....	6
2.5 Questions/Revisions to the RFP	6
2.6 Responsiveness.....	7
2.7 Contract and General Terms & Conditions	7
2.8 Costs to Propose.....	7
2.9 No Obligation to Contract.....	7
2.10 Rejection of Proposals	7
2.11 Commitment of Funds.....	7
2.12 Insurance Coverage.....	8
2.13 Federal Requirements.....	9
2.14 State Specific Requirements.....	9
3. Proposal Contents	9
3.1 Letter of Submittal	9
3.2 Technical Proposal.....	10
3.3 Management Proposal	10
3.4 Cost Proposal.....	12
4. Evaluation and Contract Award.....	12
4.1 Evaluation Procedure	12
4.2 Most Favorable Terms	12
4.3 Evaluation Weighting and Scoring	13
4.4 Oral Presentations	13
4.5 Final Evaluation and Award	13
4.6 Notification to Proposers.....	14
4.7 Debriefing of Unsuccessful Proposers.....	14
4.8 Protest Procedure	14

Section B – Benchmark-Related Consulting Services	16
5. Introduction	16
5.1 Purpose and Background.....	16
5.2 Objective	17
5.3 Minimum Qualifications	17
5.4 Funding	18
5.5 Period of Performance	18
5.6 Definitions.....	18
6. General Information for Firms	19
6.1 RFP Coordinator	19
6.2 Estimated Schedule of Procurement Activities	19
6.3 Submission of Proposals.....	19
6.4 Proprietary Information/Public Disclosure.....	20
6.5 Questions/Revisions to the RFP	20
6.6 Responsiveness.....	20
6.7 Contract and General Terms & Conditions	20
6.8 Costs to Propose.....	21
6.9 No Obligation to Contract.....	21
6.10 Rejection of Proposals	21
6.11 Commitment of Funds.....	21
6.12 Insurance Coverage.....	22
6.13 Federal Requirements.....	22
6.14 State Specific Requirements.....	22
7. Proposal Contents	23
7.1 Letter of Submittal	23
7.2 Technical Proposal.....	23
7.3 Management Proposal	24
7.4 Cost Proposal.....	25
8. Evaluation and Contract Award – Pool of Tier I Firms.....	26
8.1 Evaluation Procedure	26
8.2 Most Favorable Terms	26
8.3 Evaluation Weighting and Scoring	26
8.4 Oral Presentations	27
8.5 Final Evaluation and Award	27
8.6 Notification to Firms	27
8.7 Debriefing of Unsuccessful Firms	27
8.8 Protest Procedure	27
9. Evaluation and Contract Award – Tier II Assignment	28
9.1 Evaluation	28
9.2 Selection.....	28
9.3 Other Provisions Related to Tier II Assignments	29
10. RFP Exhibits... ..	30
Exhibit A Certifications and Assurances	i
Exhibit B Professional Service Contract Format for Benchmarking Services.....	ii
Exhibit C Professional Service Contract Format for Benchmark-Related Consulting Services.....	vi
Exhibit D General Terms and Conditions	ix

RFP Purpose and Overview

The National Association of State Auditors, Comptrollers and Treasurers (NASACT) is issuing this two-part Request for Proposals (RFP) for qualified firms and consultants to provide:

1. Baseline measurements and benchmark comparisons of state agencies' human resource (including payroll), procurement, IT, and financial business processes. Proposers may also offer proposals on any other related benchmarking services it wishes to be considered. (Part A of this RFP)
2. Strategic planning and implementation assistance relating to and resulting from a benchmarking study. (Part B of this RFP)

NASACT, an instrumentality of the states as defined by IRS Section 115, has agreed to issue this RFP, which will result in a contract(s) that can be used by as many state governments as are interested under a cooperative purchasing agreement.

The baseline measurements and benchmark comparisons in Part A of this RFP will assist states in transforming state government business processes of significant scope and magnitude. This transformation of state government will, at times, require the expertise of highly qualified vendors with experience in implementing projects of this size (Part B). The roadmap and knowledge transfer to states provided by these consultants will help to provide lasting benefits to the states. It is anticipated that benchmark studies and resulting implementation efforts will improve accountability and performance in state governments, including agencies.

This RFP seeks to contract with one firm to provide baseline measurements and benchmark comparisons described in Part A.

In Part B, NASACT seeks to make available, on an as-needed basis, selected expertise and consulting resources related to a benchmark study. The goal of this part of the RFP is to identify a pool of up to ten Firms that will be eligible to provide management consulting services as needed to NASACT and the applicable state and its agencies. Pursuant to this part of the procurement, NASACT, in consultation with the applicable state, will select and establish contracts with Firms on a "best value" basis and on a two-tiered approach. Tier I will establish agreements with the selected pool of up to ten Firms. Tier II will select a Firm from the pool for a specific assignment of work. The methods of evaluation and selection for Tier I and II are described in sections 8 and 9.

Firms may submit proposals on the baseline measurements and benchmark comparisons (Part A), benchmark-related consulting services (Part B), or both.

A. Baseline Measurement and Benchmark Comparisons of State Agency Business Processes

1. INTRODUCTION

1.1 PURPOSE AND BACKGROUND

State governments must lead by example to ensure the most efficient and effective use of state resources. Since 2005, State Comptrollers have worked together to implement a project that will assist them in assessing finance-related processes in their states and comparing their performance with other states. In addition to the assessment of each state's processes, the group wishes to have created a database of states' government metrics with which each state may compare its performance as a whole and the performance of its individual agencies.

Benchmarking is relevant for two reasons:

- Some states anticipate implementing new systems for human resource (including payroll), procurement, IT and/or financial business processes. Attaining a thorough understanding of their current practices and procedures and the efficiencies or lack thereof of current practice will assist them in re-engineering business processes to reap maximum benefits of their new systems. In addition, a benchmarking study now will provide baseline and ongoing benchmarks to measure the effectiveness of the new systems.
- State agencies are interested in adopting best practices that rely on state-of-the-art accounting, reporting and information systems to help focus on their core competencies and missions. Measuring current human resource (including payroll), procurement, IT and/or financial business processes and comparing the results to industry best practices will identify the highest priority areas for continued improvement.

To achieve these goals, NASACT is initiating this RFP to solicit proposals from Proposers qualified to provide to the Office of Comptroller or equivalent (Comptroller) in such state governments of the United States (including the District of Columbia) that participate in this RFP:

1. A proven process and toolset to establish high-level baseline measurements of state agencies' human resource (including payroll), procurement, IT, financial business processes, as well as any other benchmarking services Bidders may wish to propose. A representative sample of state agencies will comprise the scope of the baseline measurements for the human resource (including payroll), procurement, IT and the financial business processes for each Contracting State. To ensure efficient coordination within and between agencies, NASACT requires the measurement process to be essentially the same for human resource (including payroll), procurement, IT and financial business processes.
2. A comparison of the results of the baseline measures for each contracting state against established benchmarks of other state government and private sector human resource (including payroll), procurement, IT and financial business processes, and recognized best practices.

Results from the baseline measures and benchmark comparisons will be used to identify in each contracting state:

- Current human resource (including payroll), procurement, IT and financial business processes that are overly complex or cumbersome.
 - Missing or inadequate functionality in statewide information systems that support the human resource (including payroll), procurement, IT and financial business processes.
 - Best practices in human resource (including payroll) management, procurement, IT and financial business processes from the public or private sector.
 - A means to make quantifiable assessments over time of the success of systems and process improvements.
3. A report and presentation to the Comptroller of each Contracting State that includes the results of the baseline measurements, benchmark comparisons, and a prioritized list of recommendations to assist the state in achieving the results listed above for the state level and the state agency level. NASACT shall also be provided a copy of this report.
 4. An evaluation tool that will be distributed to all state participants in a benchmarking project under the contract resulting from this RFP. This tool will be used to evaluate the content and procedures of the state's benchmarking project in order to improve subsequent benchmarking projects under the contract as appropriate.
 5. Follow-up measurements and benchmark comparisons of human resource (including payroll), procurement, IT and financial business processes, as determined by each contracting state.

Proposed Schedule

NASACT prefers that each state contract be completed within five (5) months of the signing of the contract. If a state contracts for measurement of its human resource (including payroll), procurement, IT and financial business processes, the option of doing the projects sequentially instead of simultaneously will be offered. Each segment should be completed within 5 months.

Each contracting state will be allowed the option of a re-assessment of the human resource (including payroll), procurement, IT and financial business processes to measure improvements resulting from the initial benchmarking study and to identify opportunities for further improvements. This option may be used after the state government has done process re-engineering or implemented a new ERP or other system.

Contract extensions and/or renewals will be available at the contracting state's option, to perform additional follow-up measurements.

The Proposer must propose a plan and approach for the project that demonstrates a good fit for the various state governments that are interested in participating in this RFP and the willingness to work with the participating states to ensure the process can be tailored for state government. NASACT expects any tailoring to be a shared process between the Proposer, NASACT and the contracting states.

Governance

For purposes of this contract, NASACT will be considered the customer of record. During the implementation of the contract, the contracting state will be responsible for managing the process of collecting the data for the baseline measures chosen for its project.

1.2 OBJECTIVE

Determining the baselines for key administrative processes will provide current performance metrics and the ability to measure on-going improvements in existing human resource (including payroll), procurement, IT and financial business processes. In addition, comparing these business processes and services with world-class trends and emerging best practices will provide Contracting States with timely and helpful advice on steps that can be taken to achieve both short-term and long-term improvements in their back office business processes.

1.3 MINIMUM QUALIFICATIONS

The minimum qualifications herein are to ensure that Proposers have adequate experience and are up-to-date on the latest technologies related to conducting performance measures of human resource (including payroll), procurement, IT and financial business processes functions and services.

1. Before a contract pursuant to this RFP is signed, the apparent successful Proposer must hold all necessary, applicable business and professional licenses. NASACT may require any or all Proposers to submit evidence of proper licensure.
2. The Proposer must have five (5) years of recent experience in the development and analysis of performance measures and maintaining a benchmark of human resource (including payroll), procurement, IT and financial business processes and functions within the private sector.
3. The Proposer must have three (3) years of recent experience in the development and analysis of performance measures and maintaining a benchmark of human resource (including payroll), procurement, IT and financial business processes and functions within the public sector.

4. The Proposer must be able to provide at least three (3) past customer references where they have provided for similar public sector clients performance measures and benchmark analyses in the areas of human resource (including payroll), procurement, IT and financial business processes. These customer references must be for work completed within the past five (5) years.
5. The Proposer must provide the following documentation of financial responsibility and stability (in the Technical Proposal):
 - A. EITHER the three documents below:
 1. A current written bank reference, in the form of a standard business letter, indicating that the Proposer's business relationship with the financial institution is in positive standing.
 2. Two (2) current written, positive credit references, in the form of standard business letters, from vendors with which the Proposer has done business, or documentation of a positive credit rating determined by an accredited credit bureau within the last six (6) months.
 3. A letter of commitment from a financial institution (signed by an authorized agent of the financial institution and detailing the Proposer's name) for a general line of credit in the amount of Five Hundred Thousand Dollars (\$500,000).
 - B. OR the Proposer's most recent audited financial statements.

1.4 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

1.5 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin upon execution of the contract. The contract will be a three-year contract with options for three, optional one-year extensions. A state contract extending beyond the expiration date of the contract between NASACT and the contractor shall be completed as long as the state contract is signed prior to the expiration date. This section is subject to amendment for projects that get started late. Amendments extending the period of performance, if any, shall be at the sole discretion of NASACT and the contracting states.

1.6 DEFINITIONS

Definitions for the purposes of this RFP include:

Back office – Internal administrative processes and systems state agencies use to operate.

Comptroller – The officer in each state and the District of Columbia who performs the functions of a comptroller, among which are preparing and authorizing disbursements, maintaining accounting records, preparing internal and external financial reports, and advising other officers and agencies of the government about financial matters. For each project, the Comptroller will be the primary contact with the Contractor.

Contracting State – A state government that has contracted with NASACT to use this RFP to obtain baseline measures and benchmark comparisons for human resource (including payroll), procurement, IT and/or business processes.

Contractor – Individual or company whose proposal has been accepted by NASACT and who is eligible to enter into a fully executed, written contract with NASACT.

Proposal – A formal offer submitted in response to this solicitation.

Proposer – Individual or company submitting a proposal in order to attain a contract with NASACT.

Request for Proposals (RFP) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the consultant community to suggest various approaches to meet the need at a given price.

The term "Proposer" shall be defined as an individual, organization, or company that is external to NASACT and submits a bid for this procurement opportunity. For the purposes of this RFP, the following terms will be used interchangeably: Offerer, Bidder, Consultant, Firm, Proposer, and Vendor.

2. GENERAL INFORMATION FOR PROPOSERS

2.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact at NASACT for this procurement. All communication between the Proposer and NASACT upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	Kimberly O’Ryan
Office	National Association of State Auditors, Comptrollers and Treasurers
Physical Location	449 Lewis Hargett Circle, Suite 290
City, State, Zip Code	Lexington, KY 40503-3590
Phone Number	(859) 276-1147
Email Address	koryan@nasact.org

Any other communication will be considered unofficial and non-binding on NASACT. Proposers are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Proposer.

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Request for Proposals posted on NASACT’s website	November 15, 2011
Deadline for submission of written questions	November 30, 2011
Responses to written questions	By December 7, 2011
Issue addendum to RFP, if necessary	December 9, 2011
Proposals due	January 11, 2012
Evaluate proposals	January 16 - 27, 2012
Conduct oral interviews with finalists, if required	January 30 - February 2, 2012
Announce “Apparent Successful Contractor” and send email notification to unsuccessful proposers	February 13, 2012
Negotiate contract	February 15 – March 2, 2012
Begin contract work	On or about March 5, 2012

NASACT reserves the right to revise the above schedule.

2.3 SUBMISSION OF PROPOSALS

Proposers may submit their proposals to the RFP Coordinator on an appropriate electronic storage device (CD, USB flash drive or email) or by hard copy. If hard copy proposals are submitted to the RFP Coordinator, Proposers are required to submit six (6) copies of their proposals. If proposals are submitted to the RFP Coordinator on an appropriate electronic storage device, Proposers are required to use Word or PDF. The proposal, whether mailed or hand delivered, must arrive at NASACT no later than 4:30 p.m., ET, on Wednesday, January 11, 2012.

Proposals are to be sent to the RFP Coordinator at the address noted in Section 2.1. Envelopes should be clearly marked to the attention of the RFP Coordinator.

Proposers mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Proposers assume the risk for the method of delivery chosen. NASACT assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of NASACT and will not be returned.

2.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Materials submitted in response to this competitive procurement shall become the property of NASACT.

All proposals received shall remain confidential until the contract, if any resulting from this RFP, is signed by the Executive Director of NASACT and the apparent successful Contractor; thereafter, the proposals shall be deemed public records.

Any information in the proposal that the Proposer desires to claim as proprietary and exempt from disclosure must be clearly designated. The page and the particular exception from disclosure upon which the Proposer is making the claim must be identified. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

NASACT will consider a Proposer's request for exemption from disclosure. Marking the entire proposal exempt from disclosure will not be honored. The Proposer must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping copies of proposals. No fee shall be charged for inspection of contract files, but twenty-four (24) hours of notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.5 QUESTIONS/REVISIONS TO THE RFP

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by 4:30 p.m., ET, on Wednesday, November 30, 2011, to koryan@nasact.org. **Questions will not be accepted orally** and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted to NASACT's website and notice of such posting will be sent to all Firms who have been furnished the RFP by NASACT. Firms that receive this RFP or access it from a source other than NASACT should contact NASACT at koryan@nasact.org to provide their correct contact information. This will ensure that every interested Vendor will receive all updates, amendments and/or addenda to this RFP.

In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all who receive the RFP. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP. All RFPs and amendments will be posted to NASACT's website.

NASACT also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

2.6 RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Proposer is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

NASACT also reserves the right, however, at its sole discretion, to waive minor administrative irregularities.

2.7 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful contractor will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. In no event is a Proposer to submit its own standard contract terms and conditions in response to this solicitation. The Proposer may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. NASACT will review requested exceptions and accept or reject the same at its sole discretion.

The Proposer should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Proposer's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to NASACT.

2.8 COSTS TO PROPOSE

NASACT will not be liable for any costs incurred by the Proposer in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

2.9 NO OBLIGATION TO CONTRACT

This RFP does not obligate NASACT to contract for services specified herein.

2.10 REJECTION OF PROPOSALS

NASACT reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

2.11 COMMITMENT OF FUNDS

1. The Executive Director of NASACT is the only individual who may legally commit NASACT to the expenditure of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.
2. Most Contracting States will fund benchmarking projects through legislatively appropriated funds that are available for expenditure on a state fiscal year basis. Therefore, all projects will be commissioned subject to the availability of sufficient appropriated or other available funding for the projects.
3. Interested states will contact NASACT (the contract manager) when available funds are anticipated to coordinate a benchmarking project with the Contractor. Once the state participant, NASACT and the Contractor have agreed on the details of performance and cost, the parties will execute a confirmation of the project.
4. NASACT will submit an invoice to the Contracting State for the amount as negotiated, which will be remitted to NASACT for payment of invoices for the project. NASACT will account for each

Contracting State's funds separately and segregate the funds through appropriate accounting methods. If funds are not paid to NASACT at the beginning of the project, or funding type restricts payments to cost reimbursement (such as capital funds which cannot be spent until an obligation is incurred and requires payment) the Contracting State will encumber or otherwise set aside funding for NASACT for the agreed upon amount of the project for that fiscal year to ensure available funds when invoices become due.

5. If the anticipated costs of the project in any fiscal year are expected to be substantially more than projected, the Contracting State may not authorize Contractor performance or the incurring of obligations in excess of its original project confirmation without prior written approval or an amended confirmation signed by NASACT and the Contracting State confirming funding availability.
6. As project thresholds or deliverables are completed by the Contractor and accepted by the Contracting State, the Contractor will invoice NASACT for the allowable costs. Each invoice must first be approved by the Contracting State on the invoice or an attached confirmation of acceptance of the deliverables invoiced. NASACT will pay approved invoices within forty-five (45) days or earlier if the Contractor offers a prompt pay discount for early payment. Both the Contractor and Contracting States will provide ongoing progress reports of projects as requested by NASACT.

2.12 INSURANCE COVERAGE

The Contractor is to furnish NASACT with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence that insurance shall be provided in the form of a certificate of insurance, a copy of which shall be forwarded to NASACT within fifteen (15) days of the contract effective date.

Liability Insurance

1. Commercial General Liability Insurance (CGL): Contractor shall maintain general liability insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have a products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.
2. The Contractor will provide a copy of a valid certificate of insurance indicating liability insurance in the amount of at least \$1,000,000.
3. Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
4. Business Auto Policy: As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance: In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Worker's Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. NASACT will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

2.13 FEDERAL REQUIREMENTS

Contractor must comply with all applicable federal requirements.

2.14 STATE SPECIFIC REQUIREMENTS

The Proposer may need to make reasonable accommodations for state specific requirements. These requirements include, but are not limited to:

1. Procurement laws
2. Diversity
3. Prompt-payment rules
4. Proprietary information/public disclosure

3. PROPOSAL CONTENTS

Proposals should be formatted to fit standard 8 ½ x 11 inch paper. Hard copy proposals must be submitted with tabs separating the major sections of the proposal. Proposals submitted on an appropriate electronic storage device should have clearly marked section dividers (see Section 2.3, Submission of Proposals). The four major sections of the proposal are to be submitted in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP)
2. Technical Proposal
3. Management Proposal
4. Cost Proposal

Proposals must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the proposal, but should assist the Proposer in preparing a thorough response.

3.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Proposer to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Proposer and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, fax number and email address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (president, vice president, treasurer, chairperson of the board of directors, etc.).
3. Legal status of the Proposer (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number.

5. A copy of the Proposer's Data Universal Numbering System (DUNS) number. More information about obtaining a DUNS Number can be found at <http://fedgov.dnb.com/webform/>.

3.2 TECHNICAL PROPOSAL (SCORED)

The Technical Proposal must contain a comprehensive description of services including the following elements:

- A. Project Approach/Methodology** – Include a complete description of the Proposer's proposed approach and methodology for the project, including the data-collection technique(s) and analysis approach. The discussion of the methodology must include how the baseline measure and possible follow-up measures will evaluate quantifiable and non-quantifiable factors that affect performance and costs.

If the Proposer is proposing creative modifications to its standard approach to ensure a good fit for government, describe how NASACT and the contracting states will be involved in the tailoring of the standard approach.

This section should convey the Proposer's understanding of the proposed project.

This section should include the survey tool to obtain feedback from participants in benchmarking projects about, but not limited to, the clarity of instruction about the objective of the project, the usefulness of definitions provided with the data-collection tool, and the response of the Contractor to questions and problems during the data-collection process.

- B. Work Plan** – Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Proposer's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of NASACT and contracting states' staff.
- C. Project Schedule** – Include a sample project schedule for a single state project, indicating when the elements of the work will be completed and when deliverables, if any, will be provided. Also discuss schedules to manage multiple simultaneous state projects.
- D. Project Deliverables** – Fully describe deliverables to be submitted under the proposed contract, including the proposed format and delivery mechanism for each deliverable.

3.3 MANAGEMENT PROPOSAL

A. Project Management (SCORED)

1. **Project Team Structure/Internal Controls** – Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Include who within the firm will have prime responsibility and final authority for the work.
2. **Staff Qualifications/Experience** – Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. NASACT recognizes that the Proposer may not be able to identify all the staff resources that will be available for a March 2012 start date for the first state projects. However, the Proposer must identify tentative staff in its proposal and any

substitutions must be approved by NASACT and the contracting state prior to the actual start of work.

In addition, NASACT values staffing arrangements that promote longevity and continuity of resources throughout the contract term. The Proposer should also discuss how it will manage its personnel resources and ensure continuity of the team serving NASACT.

B. Experience of the Proposer (SCORED)

1. Indicate the experience the Proposer and any subcontractors have in the following areas:
 - a. Conducting baseline measures of human resource (including payroll), procurement, IT and financial business processes in the private sector.
 - b. Conducting baseline measures of human resource (including payroll), procurement, IT and financial business processes in the public sector, preferably other state governments.
 - c. Practical experience with practices and principles of governmental human resource (including payroll), procurement, IT and financial business processes.
 - d. Developing and maintaining a database of public, private, and world-class measures of human resource (including payroll), procurement, IT and financial business processes.
 - e. Recommending best practices, from both the private and public sectors, for human resource (including payroll), procurement, IT and financial business processes.
2. Describe other relevant experience that demonstrates the qualifications of the Proposer, and any subcontractors, for the performance of the contract.
3. Include a list of contracts the Proposer has had during the last five (5) years that relate to the Proposer's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/email addresses.

C. References (SCORED)

Three business references should be provided. List the company's name, contact person's name, contact person's title, address, phone number, fax number, and email address. Also include details on the scope and focus of the baseline measures and analyses (completed within the past five years) for the applicable human resource (including payroll), procurement, IT and financial business processes. The Proposer must grant permission to NASACT to contact the references. Do not include current NASACT staff as references. These references will be contacted by NASACT to determine things such as, but not limited to, the performance and quality of the baselines and analyses that were provided, for the top-scoring proposal(s) only. The inability to contact a reference provided will not be looked upon favorably; all references should be accurate and up to date. It should be noted that NASACT reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

D. Related Information (MANDATORY)

If the Proposer has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated, and such litigation determined that the Proposer was in default. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Proposer's

position on the matter. NASACT will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Proposer in the past five years, so indicate.

3.4 COST PROPOSAL

The evaluation process is designed to award this procurement not necessarily to the Proposer of least cost, but rather to the Proposer whose proposal best meets the requirements of this RFP and who presents the best value. However, Proposers are encouraged to submit proposals which are consistent with state governments' efforts to conserve states' resources.

A. Identification of Costs (SCORED)

Present the costs for the following:

- A baseline measurement for the state's high-level human resource (including payroll), procurement, IT and financial business processes and the reports and presentation of findings and recommendations at both the state level and the individual agency level.
- A state's high-level reassessment of human resource (including payroll), procurement, IT and financial business processes and the reports and presentation of findings and recommendations at both the state level and the individual agency level.
- The Proposer's hourly rates for additional consulting.

B. Computation

The score for the cost proposal will be computed by dividing the lowest total cost bid received by the Proposer's total cost. The resultant number will be multiplied by the maximum possible points for the cost section.

C. Additional Services

The Proposer should describe here any additional services it might wish to offer. This part will not be scored. Additional services may or may not be purchased.

4. EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an Evaluation Team designated by NASACT. The Team will determine the ranking of the proposals.

Items in Section 3, Proposal Contents, marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

NASACT, at its sole discretion, will select the top-scoring Proposers as finalists for oral presentations.

4.2 MOST FAVORABLE TERMS

NASACT reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Proposer

can propose. NASACT reserves the right to request a best and final offer. NASACT also reserves the right to contact a Proposer for clarification of its proposal.

4.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

Technical Proposal – 35%		350 points
Project Approach/Methodology	125 points (maximum)	
Quality of Work Plan	75 points (maximum)	
Project Schedule	50 points (maximum)	
Project Deliverables	100 points (maximum)	
Management Proposal – 35%		350 points
Team Structure/ Internal Controls	75 points (maximum)	
Staff Qualifications/Experience	125 points (maximum)	
Experience of the Proposer	150 points (maximum)	
Cost Proposal – 30%		300 points
Sub-Total		1,000 points
References [top-scoring proposer(s) only]		100 points
GRAND TOTAL		1,100 POINTS

References will be contacted for the top-scoring proposer(s) only and will then be scored and added to the total score.

The results of these calculations will be used only to identify Proposers to be invited to oral interviews.

4.4 ORAL PRESENTATIONS

The highest scoring proposers may be requested to clarify parts of their proposals in writing and to make oral presentations to the Evaluation Team. The top-scoring Proposer(s) may be contacted to schedule the presentations. Commitments made by the Proposer at the oral interview, if any, will be considered binding. NASACT will not reimburse Proposers for any travel or other related expenses for oral interviews.

After the oral presentations, the Proposer may be expected to set forth its best and final offer.

4.5 FINAL EVALUATION AND AWARD

The score from the oral presentation, if conducted, will determine the successful Proposer, irrespective of scores determined by the evaluation process described in Section 4.3.

NASACT anticipates making a final decision on the selection of the Contractor during the month of February 2012. The approved contract is expected to commence in March 2012.

4.6 NOTIFICATION TO PROPOSERS

Proposers whose proposals have not been selected for further negotiation or award will be notified by email.

4.7 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Consultant letter is emailed to the Consultant. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Consultant's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person at NASACT's Lexington office or on the telephone, and will be scheduled for a maximum of one hour.

4.8 PROTEST PROCEDURE

This procedure is available to Proposers who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Proposer is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests may be submitted by email, but should be followed by the original document.

Proposers protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Proposers under this procurement.

All protests must be in writing and signed by the protesting party or an authorized agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator;
- Mathematical errors in computing the score;
- Non-compliance with procedures described in the RFP.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as 1) an evaluator's professional judgment on the quality of a proposal, or 2) NASACT's assessment of potential contracting states' needs or requirements.

Upon receipt of a protest, a protest review will be held by NASACT's Executive Director or employees delegated by the Executive Director who were not involved in the procurement. They will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Proposer who submitted a proposal, such Proposer will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold NASACT's action; or
- Find only technical or harmless errors in NASACT's acquisition process and determine NASACT to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide NASACT options which may include:
 - Correcting the errors and re-evaluating all proposals, and/or
 - Reissuing the solicitation document and beginning a new process, and/or
 - Making other findings and determining other courses of action as appropriate.

If NASACT determines that the protest is without merit, NASACT will enter into a contract with the apparently successful Contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

B. Benchmark-Related Consulting Services

5. INTRODUCTION

5.1 PURPOSE AND BACKGROUND

Since 2005, State Comptrollers have worked together to implement a project that assists them in assessing finance-related processes in their states and comparing their performance with appropriate benchmarks.

In developing strategies and implementing recommendations resulting from a benchmarking study, states may need the expertise of highly-qualified vendors experienced with projects of this scope and magnitude.

To achieve these goals, NASACT is initiating this RFP to solicit proposals from Firms qualified to provide benchmark-related consulting services to the Office of Comptroller or equivalent (Comptroller) in such state governments of the United States (including the District of Columbia) that participate in a NASACT benchmark study (Section A of this RFP).

NASACT seeks to make available, on an as-needed basis, selected expertise and consulting resources related to a benchmark study. Therefore, the goal of this RFP is to ensure that highly qualified resources are available, as needed, to provide follow-up measurements and consulting services related to benchmark comparisons of human resource (including payroll), procurement, IT and financial business processes, as determined by each Contracting State.

NASACT is seeking to retain a pool of qualified Firms to assist with the planning, development and implementation activities resulting from a benchmark study to the state or its agencies. These services may include, but are not limited to:

- Advising the state and its entities on industry best practices.
- Developing and implementing tools and approaches to facilitate the review, prioritization and selection of agency transformation projects/activities that have the highest return on investment, including those identified as industry best practices.
- Developing a strategy that capitalizes on the synergies among transformation projects.
- Leading the state and its agencies through the implementation steps required to improve business practices included in the benchmark study.
- Developing and implementing strategies in the areas of organizational planning, business process re-engineering, communication, and workforce transition.
- Advising on the consolidation of disparate business processes across various agencies:

Pursuant to this procurement, NASACT, in consultation with the applicable state, will select and establish contracts with Firms on a “best value” basis and using a two-tiered approach. Tier I will establish the agreements with the Firms selected for a pool of up to ten vendors. Tier II will select a Firm from the pool for a specific assignment of work. The methods of evaluation and selection for Tier I and II are described in sections 8 and 9.

While a pool of consulting firms will be maintained from which consultants may be selected, this RFP does not represent a commitment by NASACT that the Firm(s) will be subsequently selected to provide any services.

Proposed Schedule

The Firm must propose a plan and approach for the project that demonstrates a good fit for the various state governments that are interested in participating in this RFP and the willingness to work with the participating states to ensure the process can be tailored for the requesting state government. NASACT expects any tailoring to be a shared process between the Firm, NASACT and the Contracting State.

The specific scope, schedule and cost of engagements will depend on the specific needs of the requesting state and its individual agencies in Tier II. While this RFP does not preclude longer-term projects, it is generally expected that the majority will be of short, targeted duration requiring a quick turn-around.

Contract extensions and/or renewals to perform additional follow-up measurements will be available at NASACT's and the contracting state's option.

Governance

For purposes of this contract, NASACT will be considered the customer of record. During the implementation of the contract, the Contracting State will be responsible for managing the process of collecting the data for the baseline measures chosen for its project.

5.2 OBJECTIVE

As described in section 1.1, states may need additional assistance in implementing some of the findings from a benchmark study, or changing fundamental business processes recommended in a benchmark study. Contracting for these services is intended to provide the needed expertise to the state or its agencies to help it achieve the desired level of results identified in the benchmark study.

5.3 MINIMUM QUALIFICATIONS

The Firm should provide a narrative description or overview (in the Technical Proposal) of its company including, but not limited to, the number of years it has been in business, and its capacity to undertake and successfully provide the range of services required by NASACT. Firms should demonstrate in their proposals a depth and breadth of experience in providing the services outlined in this RFP.

The minimum qualifications of the Firms should include:

1. Before a contract pursuant to this RFP is signed, the apparent successful Firm must hold all necessary, applicable business and professional licenses. NASACT may require any or all Firms to submit evidence of proper licensure.
2. Within the past five (5) years, performed the scope of services outlined above for three (3) governmental entities which includes a state, local, or federal agency, public authority, or public educational institution within the United States.
3. Demonstrated recent success in assisting these governmental entities in a project resulting in the integration of governmental functions, consolidation of governmental organizations and/or the design, development, and implementation of shared service centers.
4. Recommended strategies to public sector clients that resulted in documented and verifiable cost savings and operational efficiencies.
5. Advised and worked directly with the senior leaders of the governmental organization, including cabinet members, legislatures, agency commissioners, and other gubernatorial committees.
6. Experience in supporting a public sector client team responsible for communicating transformation recommendations and initiatives to control entities such as legislative bodies, civil service commissions, and labor unions.
7. The Firm must provide the following documentation of financial responsibility and stability (in the Technical Proposal):
 - A. EITHER the three documents below:
 1. A current written bank reference, in the form of a standard business letter, indicating that the Firm's business relationship with the financial institution is in positive standing.

2. Two (2) current written, positive credit references, in the form of standard business letters, from vendors with which the Firm has done business or, documentation of a positive credit rating determined by an accredited credit bureau within the last six (6) months.
 3. A letter of commitment from a financial institution (signed by an authorized agent of the financial institution and detailing the Firm's name) for a general line of credit in the amount of Five Hundred Thousand Dollars (\$500,000).
- B. OR the Firm's most recent audited financial statements.

5.4 FUNDING

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

5.5 PERIOD OF PERFORMANCE

The term of the contract with the management consulting firms selected for the pool is anticipated to be three years with three, optional one-year extensions. Notwithstanding the expiration of the Tier I contracts, individual Tier II assignments may require the Contractor to work beyond that date through the completion of a specific project, in which event, the terms and conditions of the Tier I contract shall survive expiration of the contract term and apply through completion of project and acceptance by NASACT and the state.

5.6 DEFINITIONS

Definitions for the purposes of this RFP include:

Back office – Internal administrative processes and systems state agencies use to operate.

Comptroller – The officer in each state and the District of Columbia who performs the functions of a comptroller, among which are preparing and authorizing disbursements, maintaining accounting records, preparing internal and external financial reports, and advising other officers and agencies of the government about financial matters. For each project, the Comptroller will be the primary contact with the Contractor.

Contracting State – A state government that has contracted with NASACT to use this RFP to receive follow-up consulting services pertaining to a NASACT benchmark study.

Contractor – Individual or company whose proposal has been accepted by NASACT and who is eligible to enter into a fully executed, written contract with NASACT.

Proposal – A formal offer submitted in response to this solicitation.

Firm – Individual or company submitting a proposal in order to attain a contract with NASACT.

Request for Proposals (RFP) – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the consultant community to suggest various approaches to meet the need at a given price.

The term "Firm" shall be defined as an individual, organization, or company that is external to NASACT and submits a bid for this procurement opportunity. For the purposes of this RFP, the following terms will be used interchangeably: Offerer, Bidder, Consultant, Firm, Proposer, and Vendor.

6. GENERAL INFORMATION FOR FIRMS

6.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact at NASACT for this procurement. All communication between the Firm and NASACT upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	Kimberly O’Ryan
Office	National Association of State Auditors, Comptrollers and Treasurers
Physical Location	449 Lewis Hargett Circle, Suite 290
City, State, Zip Code	Lexington, KY 40503-3590
Phone Number	(859) 276-1147
Email Address	koryan@nasact.org

Any other communication will be considered unofficial and non-binding on NASACT. Firms are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Firm.

6.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Request for Proposals posted on NASACT's website	November 15, 2011
Deadline for submission of written questions	November 30, 2011
Responses to written questions	By December 7, 2011
Issue addendum to RFP, if necessary	December 9, 2011
Proposals due	January 11, 2012
Evaluate proposals	January 16 - 27, 2012
Conduct oral interviews with finalists, if required	January 30 - February 2, 2012
Announce “Apparent Successful Contractor” and send email notification to unsuccessful proposers	February 13, 2012
Negotiate contract	February 15 – March 2, 2012
Begin contract work	On or about March 5, 2012

NASACT reserves the right to revise the above schedule.

6.3 SUBMISSION OF PROPOSALS

Proposers may submit their proposals to the RFP Coordinator on an appropriate electronic storage device (CD, USB flash drive or email) or by hard copy. If hard copy proposals are submitted to the RFP Coordinator, Proposers are required to submit six (6) copies of their proposals. If proposals are submitted to the RFP Coordinator on an appropriate electronic storage device, Proposers are required to use Word or PDF. The proposal, whether mailed or hand delivered, must arrive at NASACT no later than 4:30 p.m., ET, on Wednesday, January 11, 2012.

Proposals are to be sent to the RFP Coordinator at the address noted in Section 2.1. Envelopes should be clearly marked to the attention of the RFP Coordinator.

Proposers mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Proposers assume the risk for the method of delivery chosen. NASACT assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of NASACT and will not be returned.

6.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Materials submitted in response to this competitive procurement shall become the property of NASACT.

All proposals received shall remain confidential until the contract, if any resulting from this RFP, is signed by the Executive Director of NASACT and the apparent successful Contractor; thereafter, the proposals shall be deemed public records.

Any information in the proposal that the Firm desires to claim as proprietary and exempt from disclosure must be clearly designated. The page and the particular exception from disclosure upon which the Firm is making the claim must be identified. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

NASACT will consider a Firm's request for exemption from disclosure. Marking the entire proposal exempt from disclosure will not be honored. The Firm must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected Firm has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping copies of proposals. No fee shall be charged for inspection of contract files, but twenty-four (24) hours of notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

6.5 QUESTIONS/REVISIONS TO THE RFP

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by 4:30 p.m., ET, on Wednesday, November 30, 2011, to koryan@nasact.org. **Questions will not be accepted orally** and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted to the NASACT's website and notice of such posting will be sent to all Firms who have been furnished the RFP by NASACT. Firms that receive this RFP or access it from a source other than NASACT should contact NASACT at koryan@nasact.org to provide their correct contact information. This will ensure that every interested Vendor will receive all updates, amendments and/or addenda to this RFP.

In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all who receive the RFP. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP. All RFPs and amendments will be posted on NASACT's website.

NASACT also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

6.6 RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Firm is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

NASACT also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

6.7 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful Firm(s) will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit C. In no event is a Firm to submit its own standard contract terms and conditions in response to this solicitation. The Firm may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. NASACT will review requested exceptions and accept or reject the same at its sole discretion.

The Firm should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Firm's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to NASACT.

6.8 COSTS TO PROPOSE

NASACT will not be liable for any costs incurred by the Firm in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

6.9 NO OBLIGATION TO CONTRACT

This RFP does not obligate NASACT to contract for services specified in this RFP.

6.10 REJECTION OF PROPOSALS

NASACT reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

6.11 COMMITMENT OF FUNDS

1. The Executive Director of NASACT is the only individual who may legally commit NASACT to the expenditure of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.
2. Most Contracting States will fund consulting projects through legislatively appropriated funds that are available for expenditure on a state fiscal year basis. Therefore, all projects will be commissioned subject to the availability of sufficient appropriated or other available funding for the projects.
3. Interested states will contact NASACT (the contract manager) when available funds are anticipated to coordinate benchmark-related consulting services. Once the Contracting State, NASACT and the Firm have agreed to the details of performance and cost, the parties will execute a confirmation of the project.
4. NASACT will submit an invoice to the Contracting State for the amount as negotiated, which will be remitted to NASACT for payment of invoices for the project. NASACT will account for each Contracting State's funds separately and segregate the funds through appropriate accounting methods. If funds are not paid to NASACT at the beginning of the project, or funding type restricts payments to cost reimbursement (such as capital funds which cannot be spent until an obligation is incurred and requires payment) the Contracting State will encumber or otherwise set aside funding for NASACT for the agreed upon amount of the project for that fiscal year to ensure available funds when invoices become due.
5. If the anticipated costs of the project in any fiscal year are expected to be substantially more than projected, the Contracting State may not authorize contractor performance or the incurring of obligations in excess of its original project confirmation without prior written approval or an amended confirmation signed by NASACT and the Contracting State confirming funding availability.

6. As project thresholds or deliverables are completed by the Contractor and accepted by the Contracting State, the Contractor will invoice NASACT for the allowable costs. Each invoice must first be approved by the Contracting State on the invoice or an attached confirmation of acceptance of the deliverables invoiced. NASACT will pay approved invoices within forty-five (45) days or earlier if the Firm offers a prompt pay discount for early payment. Both the Firm and the Contracting State will provide ongoing progress reports of projects as requested by NASACT.

6.12 INSURANCE COVERAGE

The Firm is to furnish NASACT with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Firm shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Firm shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to NASACT within fifteen (15) days of the contract effective date.

Liability Insurance

1. Commercial General Liability Insurance (CGL): Firm shall maintain general liability insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.
2. The Firm will provide a copy of a valid certificate of insurance indicating liability insurance in the amount of at least \$1,000,000.
3. Additionally, the Firm is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
4. Business Auto Policy: As applicable, the Firm shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance: In addition, the Firm shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Worker's Compensation Coverage

The Firm will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. NASACT will not be held responsible in any way for claims filed by the Firm or their employees for services performed under the terms of this contract.

6.13 FEDERAL REQUIREMENTS

Contractor must comply with all applicable federal requirements.

6.14 STATE SPECIFIC REQUIREMENTS

The Firm may need to make reasonable accommodations for state specific requirements. These requirements include, but are not limited to:

1. Procurement laws
2. Diversity
3. Prompt-payment rules
4. Proprietary information/public disclosure

7. PROPOSAL CONTENTS

Proposals must be submitted on 8 ½ by 11 inch paper. Hard copy proposals should include tabs separating the major sections of the proposal. Proposals submitted on an appropriate electronic storage device should include clearly marked dividers of the proposal sections (see Section 2.3, Submission of Proposals). The four major sections of the proposal are to be submitted in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP)
2. Technical Proposal
3. Management Proposal
4. Cost Proposal

Proposals must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the proposal, but should assist the Firm in preparing a thorough response.

7.1 LETTER OF SUBMITTAL (MANDATORY)

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Firm to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Firm and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, fax number and email address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (president, vice president, treasurer, chairperson of the board of directors, etc.).
3. Legal status of the Firm (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number.
5. A copy of the Proposer's Data Universal Numbering System (DUNS) number. More information about obtaining a DUNS Number can be found at <http://fedgov.dnb.com/webform/>.

7.2 TECHNICAL PROPOSAL (SCORED)

NASACT seeks contractors with a depth of knowledge and experience. Firms should also provide detailed examples of at least three (3) similar engagements (preferably with large public sector clients), where a project was conducted that would demonstrate that the Firm can provide the services outlined in this RFP. Include any product samples, as appropriate, as appendices to the Technical Proposal.

Each example will include at a minimum:

1. Name of client and contact information including contract reference numbers and contract period of performance.
2. Description of engagement and objectives of the project including beginning and ending dates.

3. Examples of recommendations offered to the client and the results of the implementation of those recommendations.
4. Answers to the following specific questions:
 - a. Was the project completed on time and within the estimated budget?
 - b. How were efficiencies achieved?
 - c. Did the client or the Firm implement the recommendations?
 - d. Did the client encounter any problems (i.e., legislative, political, organizational, process, etc.) in attempting to implement the changes? If so, describe the issue and how your company assisted the client in working through it.
5. Any other information regarding the project that would assist the NASACT in determining the success experienced by the client.
6. If the example(s) are with a private sector client, discuss how the Firm's experience would translate to the public sector environment.

In this section of its response, the Firm should outline the factors that it believes are critical to the success of these benchmark-related consulting services. Further, the Firm should describe its experience in successfully addressing these critical factors in other similar engagements, highlighting unique experiences, skills, or abilities the Firm would bring to the engagement that differentiate it from other Firms and that would maximize the likelihood of a successful outcome for this engagement, if selected.

7.3 MANAGEMENT PROPOSAL (SCORED)

Firms should describe their organizational structure and include a discussion of each of its functional units and the general scope of work for each unit. This should include an organizational chart, or similar graphic representation, identifying each functional unit and the number of staff on each team.

For staff qualifications and management, proposers should provide the names and titles of the individuals to be designated as the lead Engagement Partner and lead Project Manager in this engagement. Complete contact information for three (3) direct references from recent similar engagements for the lead Engagement Partner and lead Project Manager. **The Firm must grant permission to NASACT to contact the references. Do not include current NASACT staff as references.** These references will be contacted by NASACT to determine things such as, but not limited to, the performance and quality of the consulting services that were provided for the top-scoring proposal(s) only. The inability to contact a reference provided will not be looked upon favorably; all references should be accurate and up to date. It should be noted that NASACT reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

The Management Proposal should describe the specific qualifications for the lead Engagement Partner and lead Project Manager, including a narrative discussing the appropriateness and value of their roles and responsibilities as the experience relates to NASACT's needs, as defined herein. The five (5) most recent projects for the Engagement Partner and Project Manager should be listed and described in this section. Firms should also demonstrate in the Technical Proposal how these proposed key staff meet the desired qualifications in this RFP. Staff proposed that meet or exceed these qualifications will be evaluated more favorably.

NASACT values staffing arrangements that promote longevity and continuity of resources throughout the contract term. The Firm should also discuss how it will manage its personnel resources and ensure continuity of the team serving NASACT.

In an appendix to the Firm's Technical Proposal, the Firm is instructed to include the resumes for the proposed Engagement Partner and Project Manager, including their function in the company, title, office address, and number of years of service with the Firm as well as relevant training and experience that would qualify the individual for this engagement. Firms should be advised that any changes in staffing are subject to NASACT approval.

If the Firm has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Firm's non-performance or

poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Firm, or (b) litigated, and such litigation determined that the Firm was in default. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Firm's position on the matter. NASACT will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Firm in the past five years, so indicate.

7.4 COST PROPOSAL

The evaluation process is designed to award this procurement not necessarily to the Firm of least cost, but rather to the Firm whose proposal best meets the requirements of this RFP and who presents the best value. However, Firms are encouraged to submit proposals which are consistent with state governments' efforts to conserve states' resources.

The Evaluation Team will examine the cost proposal documents. The cost proposals will be reviewed for responsiveness to the cost requirements. If a cost proposal is found to be non-responsive, that proposal will not receive a cost score and the firm will be eliminated from consideration for this procurement. Each responsive proposal that meets the cost proposal requirements will receive a cost score.

Cost proposals will be evaluated based on a pre-determined formula using the Firms' proposed hourly rates. The maximum score will be allocated to the proposal with the lowest cost according to this formula. All other proposals will receive a proportionate score to the proposal with the lowest cost, according to the following calculation:

Cost points awarded = (potential points) X (Low Cost / Firm's Cost).

Cost proposals from all Firms must be presented to enable the evaluation of cost according to the NASACT's prescribed formula.

A. Identification of Costs (SCORED)

The Firm should provide its hourly rates for benchmark-related consulting services by title and position. The Firm must certify that their proposed, not-to-be-exceeded hourly rates cover all services required in this RFP. The proposed rates must be inclusive of any clerical personnel, travel, computer charges, postage, and all other expenses related to the engagement. Further firms must submit only one rate for each title; a range of hourly rates is not acceptable.

B. Computation

The score for the cost proposal will be computed by dividing the lowest total cost bid received by the Firm's total cost. The resultant number will be multiplied by the maximum possible points for the cost section.

8. EVALUATION AND CONTRACT AWARD – POOL OF TIER I FIRMS

8.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an Evaluation Team designated by NASACT. The Team will determine the ranking of the proposals.

Items in Section 7, Proposal Contents, marked “mandatory” must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the Evaluation Team. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Team, may be rejected. All proposals passing the submission requirements will be evaluated and scored for technical qualifications, management qualifications, and cost.

During the evaluation process, NASACT or the Evaluation Team may require clarifying information from a Firm. If specific sections of the written proposal require clarification, NASACT will contact the Firm and request clarifying information. The Firm must respond by the deadline provided by NASACT.

NASACT, at its sole discretion, will select the top-scoring Firms as finalists for possible oral presentations.

8.2 MOST FAVORABLE TERMS

NASACT reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Firm can propose. NASACT reserves the right to request a best and final offer. NASACT also reserves the right to contact a Firm for clarification of its proposal.

8.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

Technical Proposal – 35%	350 points
Management Proposal – 35%	350 points
Cost Proposal – 30%	300 points
Sub-Total	1,000 points
References [top-scoring proposer(s) only]	100 points
GRAND TOTAL	1,100 POINTS

References will be contacted for the top-scoring Firms only and will then be scored and added to the total score.

The results of these calculations will be used only to identify Firms to be invited to oral interviews, if conducted.

8.4 ORAL PRESENTATIONS

The highest scoring proposers may be requested to clarify parts of their proposals in writing and to make oral presentations to NASACT and the state's evaluation team. The top-scoring Firms may be contacted to schedule the presentations. Commitments made by the Firm at the oral interview, if any, will be considered binding. NASACT will not reimburse Firm for any travel or other related expenses for oral interviews.

After the oral presentations, the Firm may be expected to set forth its best and final offer.

8.5 FINAL EVALUATION AND AWARD

The score from the oral presentation, if conducted, will determine the successful Firms, irrespective of scores determined by the evaluation process described in Section 8.3.

Up to ten Firms will be selected as the successful awardees in Tier I.

NASACT anticipates making a final decision on the selection of the pool of Tier I Firms during the month of February 2012. The approved contract is expected to commence in March 2012.

8.6 NOTIFICATION TO FIRMS

Firms whose proposals have not been selected for further negotiation or award will be notified by email.

8.7 DEBRIEFING OF UNSUCCESSFUL FIRMS

Upon request, a debriefing conference will be scheduled with an unsuccessful Firm. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Consultant letter is emailed to the Firm. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Firm's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person at NASACT's Lexington office or on the telephone, and will be scheduled for a maximum of one hour.

8.8 PROTEST PROCEDURE

This procedure is available to Firms who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Firm is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests may be submitted by email, but should be followed by the original document.

Firms protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Firms under this procurement.

All protests must be in writing and signed by the protesting party or an authorized agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator;
- Mathematical errors in computing the score;
- Non-compliance with procedures described in the RFP.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as 1) an evaluator's professional judgment on the quality of a proposal, or 2) NASACT's assessment of potential contracting states' needs or requirements.

Upon receipt of a protest, a protest review will be held by NASACT's Executive Director or employees delegated by the Executive Director who were not involved in the procurement. They will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Firm who submitted a proposal, such Firm will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold NASACT's action; or
- Find only technical or harmless errors in NASACT's acquisition process and determine NASACT to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide NASACT options which may include:
 - Correcting the errors and re-evaluating all proposals, and/or
 - Reissuing the solicitation document and beginning a new process, and/or
 - Making other findings and determining other courses of action as appropriate.

If NASACT determines that the protest is without merit, NASACT will finalize the selection of the pool of Tier I Firms. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

9. EVALUATION AND CONTRACT AWARD – TIER II ASSIGNMENT

9.1 EVALUATION

The Tier II assignment is the process by which NASACT, in consultation with the state requesting the services, will select a Firm from the pool to perform actual work assignments/projects. The specific scope, schedule and cost of individual projects under the resulting contracts will be determined by a Tier II assignment process. In Tier II assignments, the Contracting State will work to define the scope of projects as well as the evaluation criteria. Any hourly costs proposed in Tier II responses must not exceed the hourly rates established through the Tier I process.

9.2 SELECTION

The Tier II process will require quick turnaround from the pool of Firms. To expedite any such procurement, the Contracting State will utilize email to the fullest extent. The following steps will be taken:

1. All Firms selected during Tier I will be notified of proposed Tier II assignments.
2. The Tier II assignment notifications will define the particulars of the project: its scope, duration and deliverables requested.
3. The specifics of the Tier II evaluation will be outlined when the Tier II proposals are sought. Assignment awards will be based on the technical, management, and cost components that will be weighted in accordance with best value evaluation methodology with the weights provided as part of the assignment documentation based on the needs of the contracting state.
4. Tier II submissions in response to Tier II assignment notifications will be emailed to the designated contacts, as identified in the solicitation. Hard copy follow up is required with originally signed cost proposal pages and other applicable documentation.
5. The successful Firm will be notified by email, as will those Firms not selected.

9.3 OTHER PROVISIONS RELATED TO TIER II ASSIGNMENTS

Items discussed in 8.4 through 8.8 regarding oral presentations, final evaluation and award, notification to firms, debriefing of unsuccessful firms, and protest procedure also apply to Tier II assignments.

10. RFP EXHIBITS

- Exhibit A Certifications and Assurances
- Exhibit B Professional Service Contract Format (Benchmarking Services)
- Exhibit C Professional Service Contract Format (Benchmark-Related Consulting Services – Tier II Assignments)
- Exhibit D General Terms and Conditions

CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by NASACT without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of NASACT or state government (whose employment at NASACT or state government was less than two years ago) whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that NASACT will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of NASACT, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document. If I/we fail to submit any exceptions, our right to negotiate exceptions later is waived.
8. The price or cost data quoted for services in response to this RFP are not in excess of those charged any other client/customer for the same services performed by the same individuals. The cost data and prices which have been submitted are accurate and complete.
9. The Proposer grants NASACT permission to contact references provided in the Proposer's proposal.
10. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

 Signature of Proposer

 Printed Name

 Title

 Date

 Company Name

**BENCHMARK CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS
AND**

This Contract is made and entered into by and between the National Association of State Auditors, Comptrollers and Treasurers and the below named Proposer, hereinafter referred to as "CONTRACTOR,"

CONTRACTOR

Address

City, State & Zip Code

Phone: _____

Email Address: _____

Federal ID No.: _____

PURPOSE

The purpose of this contract is to acquire professional services and expertise to assist state governments in establishing and analyzing high-level baseline measurements of state agencies' human resource (including payroll), procurement, IT and/or financial business processes. Results of the measurement and analyses will be presented to each contracting state with a prioritized list of recommendations to improve the state's human resource (including payroll), procurement, IT and financial business processes and information systems. Similar results and recommendations will also be provided to participating agencies in each state. NASACT will also receive a copy of these results.

The contact will also allow for follow-up measurements and benchmark comparisons of human resource (including payroll), procurement, IT and/or financial business processes, as determined by the contracting state.

SCOPE OF WORK

The CONTRACTOR will provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: as included in the CONTRACTOR's Proposal dated _____ attached as Exhibit B, and NASACT's Request for Proposals attached as Exhibit C.

Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between NASACT and the CONTRACTOR, and specific obligations of both parties.

The CONTRACTOR shall produce the following written reports or other written documents (deliverables) to the contracting state by the dates indicated below:

All written reports required under this contract must be delivered to _____, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from _____ or date of execution, whichever is later, through _____, unless sooner terminated or extended as provided herein.

COMPENSATION AND PAYMENT

NASACT will pay CONTRACTOR upon receipt of approved invoices, which shall first be submitted to the Contracting State's Project Manager for approval in accordance with the contract deliverables payment schedule. The invoices shall describe and document to NASACT's and the contracting state's satisfaction a description of the work performed, the progress of the project, and fees.

NASACT shall pay an amount not to exceed _____ dollars (\$_____) per state contract for satisfactory performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be the fixed price agreed upon in the contract.

BILLING PROCEDURES

NASACT maintains a vendor file to use for processing vendor payments. CONTRACTORS are strongly encouraged to sign up for direct deposit.

NASACT will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the Project Manager. The invoices shall describe and document to NASACT's satisfaction a description of the work performed, the progress of the project, and fees.

NOTE: *Payment will be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the contract, payment at conclusion of the contract, etc. For example, upon completion of:*

- Project organization (detailed plan, project kickoff meeting), 8% of the contract price.
- Measurement (collection of state data), 42% of the contract price.
- Analysis (reports and presentations of findings and recommendations), 50%.

Payment shall be considered timely if made by NASACT within forty-five (45) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

NASACT may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by NASACT.

NOTE: *Optional Provision – At its own discretion, NASACT may withhold fifteen percent (15%) from the final payment until acceptance by NASACT of the final report (or completion of the project, etc.).*

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

Contract Manager for CONTRACTOR:	Contract Manager for NASACT
<u>Name</u> <u>Contractor Name</u> <u>Address</u> <u>City, State Zip Code</u> <u>Phone: ()</u> <u>Fax: ()</u> <u>Email address:</u>	<u>Name</u> Kim O’Ryan NASACT 449 Lewis Hargett Circle, Suite 290 Lexington, KY 40503-3590 Phone: (859) 276-1147 Fax: (859) 278-0507 Email address: koryan@nasact.org

The CONTRACTOR shall provide insurance coverage as set out in Request for Proposals No. 11-01. The intent of the required insurance is to protect NASACT should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract.

CONTRACTOR shall submit to NASACT within fifteen (15) days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

NASACT and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and contracting statutes and regulations.
- Special Terms and Conditions as contained in this basic contract instrument.
- Exhibit A – General Terms and Conditions.
- Request for Proposals No. 11-01 including provisions, terms or material incorporated herein by reference or otherwise incorporated.
- Exhibit B – Contractor’s Proposal dated _____.
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

ENTIRE AGREEMENT

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the contracting state, it is considered modified to conform to that statute or rule of law.

AMENDMENTS

The contract may be changed, modified or amended only by written amendment executed by both parties.

THIS CONTRACT, consisting of _____ pages and _____ attachment(s), is executed by the persons signing below who warrant that they have the authority to execute the contract.

(CONTRACTOR)

Signature

Title

Date

NASACT

R. Kinney Poynter

Executive Director

Title

Date

**BENCHMARK RELATED CONSULTING SERVICES – TIER II ASSIGNMENTS
CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS
AND**

This Contract is made and entered into by and between the National Association of State Auditors, Comptrollers and Treasurers and the below named Proposer, hereinafter referred to as "CONTRACTOR,"

CONTRACTOR

Address

City, State & Zip Code

Phone: _____

Email Address: _____

Federal ID No.: _____

PURPOSE

The purpose of this contract is to acquire professional services and expertise to assist state governments in procuring benchmark-related consulting services.

SCOPE OF WORK

The CONTRACTOR will provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: as included in the CONTRACTOR's Proposal dated _____ attached as Exhibit B, and NASACT's Request for Proposals attached as Exhibit C.

Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between NASACT and the CONTRACTOR, and specific obligations of both parties.

The CONTRACTOR shall produce the following written reports or other written documents (deliverables) to the contracting state by the dates indicated below:

All written reports required under this contract must be delivered to _____, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from _____ or date of execution, whichever is later, through _____, unless sooner terminated or extended as provided herein.

COMPENSATION AND PAYMENT

NASACT will pay CONTRACTOR upon receipt of approved invoices, which shall first be submitted to the Contracting State's Project Manager for approval in accordance with the contract deliverables payment schedule. The invoices shall describe and document to NASACT's and the contracting state's satisfaction a description of the work performed, the progress of the project, and fees.

NASACT shall pay an amount not to exceed _____ dollars (\$_____) per state contract for satisfactory performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be the fixed price agreed upon in the contract.

BILLING PROCEDURES

NASACT maintains a vendor file to use for processing vendor payments. CONTRACTORS are strongly encouraged to sign up for direct deposit.

NASACT will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the Project Manager. The invoices shall describe and document to NASACT's satisfaction a description of the work performed, the progress of the project, and fees.

NOTE:

NASACT will compensate the Contractor following acceptance of the deliverable(s) and submission of an approvable invoice.

Payment shall be considered timely if made by NASACT within forty-five (45) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

NASACT may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by NASACT.

NOTE: Optional Provision – At its own discretion, NASACT may withhold fifteen percent (15%) from the final payment until acceptance by NASACT of the final report (or completion of the project, etc.).

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

Contract Manager for CONTRACTOR:	Contract Manager for NASACT
<u>Name</u> Contractor Name <u>Address</u> <u>City, State Zip Code</u> <u>Phone:</u> () <u>Fax:</u> () <u>Email address:</u>	<u>Name</u> Kim O'Ryan NASACT 449 Lewis Hargett Circle, Suite 290 Lexington, KY 40503-3590 Phone: (859) 276-1147 Fax: (859) 278-0507 Email address: koryan@nasact.org

The CONTRACTOR shall provide insurance coverage as set out in Request for Proposals No. 11-01. The intent of the required insurance is to protect NASACT should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract.

CONTRACTOR shall submit to NASACT within fifteen (15) days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

NASACT and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and contracting statutes and regulations.
- Special Terms and Conditions as contained in this basic contract instrument.
- Exhibit A – General Terms and Conditions.
- Request for Proposals No. 11-01 including provisions, terms or material incorporated herein by reference or otherwise incorporated.
- Exhibit B – Contractor's Proposal dated _____.
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

ENTIRE AGREEMENT

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the contracting state, it is considered modified to conform to that statute or rule of law.

AMENDMENTS

The contract may be changed, modified or amended only by written amendment executed by both parties.

THIS CONTRACT, consisting of _____ pages and _____ attachment(s), is executed by the persons signing below who warrant that they have the authority to execute the contract.

(CONTRACTOR)

Signature

Title

Date

NASACT

R. Kinney Poynter

Executive Director

Title

Date

GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "NASACT" shall mean the National Association of State Auditors, Comptrollers and Treasurers, and any other officials lawfully representing NASACT.
- B. "Agent" shall mean the Executive Director of NASACT and/or the delegate authorized in writing to act on the Director's behalf.
- C. "Contractor" shall mean that Proposer, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the Contractor.
- D. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.

ACCESS TO DATA - The Contractor shall provide access to data generated under this contract to NASACT and to the legislative committees which oversee the Contracting State's audit and to the Contracting State's auditor, if applicable, at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

ADVANCE PAYMENTS PROHIBITED - No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by NASACT.

ASSIGNMENT - The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ATTORNEYS' FEES - In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys' fees and costs.

CONFIDENTIALITY / SAFEGUARDING OF INFORMATION - The Contractor shall not use or disclose any information concerning NASACT or any contracting state, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of NASACT and the contracting state, or as may be required by law.

CONFLICT OF INTEREST - NASACT may, at its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Agent that there is a violation of NASACT's Procurement Policy for Cooperative Agreements, Section 6, involving the Contractor in the procurement of, or services under this contract.

In the event this contract is terminated as provided above, NASACT shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of NASACT provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS - Unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned jointly by NASACT and each contracting state. NASACT shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby

irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to NASACT effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to NASACT a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to NASACT. Any rights and materials specific to a contracting state's project will be transferred from NASACT to that state.

The Contractor shall exert all reasonable effort to advise NASACT, at the time of delivery of Materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. NASACT shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. NASACT shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

COVENANT AGAINST CONTINGENT FEES - The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. NASACT shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISPUTES - Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved, either party may request a dispute hearing with (Agent). Disputes shall be resolved as quickly as possible.

1. The request for a dispute hearing must:
 - be in writing;
 - state the disputed issue(s);
 - state the relative positions of the parties;
 - state the Contractor's name, address, and contract number; and
 - be mailed to the Agent and the other party's (respondent's) Contract Manager within 3 working days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the Agent and the requester within 5 working days.
3. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

NASACT and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract which are not affected by the dispute. Both parties agree to exercise good faith in the dispute resolution and to settle disputes prior to using the dispute resolution panel whenever possible.

GOVERNING LAW - This contract shall be construed and interpreted in accordance with the laws of the Commonwealth of Kentucky, and the venue of any action brought hereunder shall be in the Superior Court for Fayette County.

INDEMNIFICATION - To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless NASACT and all officials, agents and employees of NASACT, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless NASACT for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend and hold harmless NASACT only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

INDEPENDENT CAPACITY OF THE CONTRACTOR - The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of NASACT. The Contractor will not hold himself/herself out as or claim to be an officer or employee of NASACT by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

INDUSTRIAL INSURANCE COVERAGE - NASACT may require the apparent successful Contractor to provide proof of adequate worker's compensation and public liability insurance coverage before entering into a contract. Additionally, NASACT may require, at its sole discretion, the apparent successful Proposer to provide proof of adequate professional malpractice liability or other forms of insurance. Failure to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by NASACT shall be in form and substance acceptable to NASACT.

LICENSING, ACCREDITATION AND REGISTRATION - The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY - Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS - In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with NASACT. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION - During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY PROTECTION CLAUSE - Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of NASACT and the contracting state or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless NASACT for any damages related to the Contractor's unauthorized use of personal information.

For purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, Social Security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

PUBLICITY - The Contractor agrees to submit to NASACT all advertising and publicity matters relating to this Contract which, in NASACT's judgment, NASACT's and the contracting state(s)' names can be implied or are specifically mentioned. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of NASACT and the contracting state(s).

RECORDS, DOCUMENTS, AND REPORTS - The Contractor shall maintain complete financial records relating to this contract and the services rendered including all books, records, documents, magnetic media, receipts, invoices and other evidence relating to this contract and performance of the services described herein, including but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review, or audit by NASACT, its auditors, and federal and state officials so authorized by law, rule, regulation, or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE - The Contractor shall complete registration with the Revenue Cabinet of the Commonwealth of Kentucky and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION - The Contractor shall provide right of access to its facilities to NASACT, or any of its officers, or to any other authorized agent or official of any contracting state or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS - In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, NASACT may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at NASACT's discretion under those new funding limitations and conditions.

SEVERABILITY - The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY - While on the premises of NASACT or a contracting state, the Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security regulations.

SUBCONTRACTING - Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of NASACT.

TAXES - All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE - In the event NASACT determines the Contractor has failed to comply with the conditions of this contract in a timely manner, NASACT has the right to suspend or terminate this Contract. NASACT shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 3 days, the contract may be terminated. NASACT reserves the right to suspend

all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by NASACT to terminate the contract.

In the event of termination, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default, or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of NASACT provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE - Except as otherwise provided in this contract, NASACT may, by 10 days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, NASACT shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES - Upon termination of this contract, NASACT, in addition to any other rights provided in this contract, may require the Contractor to deliver to NASACT any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

NASACT shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by NASACT, and the amount agreed upon by the Contractor and NASACT for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services which are accepted by NASACT, and (iv) the protection and preservation of property, unless the termination is for default, in which case NASACT shall determine the extent of the liability of NASACT. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. NASACT may withhold from any amounts due the Contractor such sum as NASACT determines to be necessary to protect NASACT against potential loss or liability.

The rights and remedies of NASACT provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Agent, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to NASACT, in the manner, at the times, and to the extent directed by the Agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case NASACT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of NASACT to the extent NASACT may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to NASACT and deliver in the manner, at the times, and to the extent directed by NASACT any property which, if the contract had been completed, would have been required to be furnished to NASACT;
6. Complete performance of such part of the work as shall not have been terminated by NASACT; and
7. Take such action as may be necessary, or as NASACT may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which NASACT has or may acquire an interest.

TREATMENT OF ASSETS -

1. Title to all property furnished by NASACT shall remain in NASACT. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in NASACT upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in NASACT upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by NASACT in whole or in part, whichever first occurs.
2. Any property of NASACT furnished to the Contractor shall, unless otherwise provided herein or approved by NASACT, be used only for the performance of this contract.
3. The Contractor shall be responsible for any loss or damage to property of NASACT which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
4. If any NASACT property is lost, destroyed or damaged, the Contractor shall immediately notify NASACT and shall take all reasonable steps to protect the property from further damage.
5. The Contractor shall surrender to NASACT all property of NASACT prior to settlement upon completion, termination or cancellation of this contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

WAIVER - Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by NASACT.