

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
TO PROVIDE COMPLIANCE REVIEWS, ACCOUNTING AND RELATED SERVICES
ISSUED BY THE LAWYERS' FUND FOR CLIENT PROTECTION
OF THE SUPREME COURT OF DELAWARE**

I. Overview

The Lawyers' Fund for Client Protection of the Supreme Court of Delaware (hereinafter LFCP-SCD) seeks technical and financial proposals from qualified offerors to furnish compliance review, accounting and related advisement and educational services for the Lawyers' Fund for Client Protection. This request for proposals (RFP) is issued pursuant to 29 Del. C. Sections 6902(1), 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: July 31, 2015 through August 21, 2015
Deadline for Receipt of Proposals	Date: September 11, 2015
Notification of Award	Date: October 23, 2015

The proposal must conform to the requirements of the Proposal Procedures and the Required Information Sections of the RFP. The Lawyers' Fund for Client Protection of the Supreme Court of Delaware specifically reserves the right to waive any informalities or irregularities in the proposal format. Each proposal must be accompanied by a cover letter which briefly summarizes the proposing individual's or firm's interest in providing the required professional services. The cover letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. The LFCP-SCD reserves the right to deny any and all exceptions taken to the RFP requirements.

II. Scope of Service

Introduction: The Lawyers' Fund for Client Protection (LFCP) is a fund created by the Supreme Court of Delaware (SCD) to provide monetary relief to clients who have suffered financial losses as a result of the dishonest conduct of lawyers. While acts of attorney dishonesty are the exceptions and not the rule, the LFCP was established to show the good faith of all the members of the Delaware Bar.

1) The LFCP-SCD contemplates a contract under which the selected individual or firm will perform compliance reviews of selected attorneys' books and records as required by Rule 9 "Audits" of the Trustees' Rules for the LFCP-SCD (herein after Trustees' Rule 9 act as the accountant for the LFCP, update policies and procedures as necessary and appropriate, educate attorneys on the importance of proper record keeping and participate in meetings and hearings as needed.

Compliance Reviews:

- Perform sixty (60) compliance reviews per year (five (5) per month), using prescribed Trustees' Rule 9 Audit Program (see Appendix A), to determine if attorneys are in compliance with Rule 1.15 and Rule 1.15A of the Delaware Lawyers' Rules of Professional Conduct (See Appendices B and C). Provide written reports outlining compliance or non-compliance with each of the requirements.
- Follow-up with attorneys whose Compliance Reviews uncovered violations. Such follow-up often involves additional reviews. Provide written reports on findings.
- Perform special or investigative reviews, as directed by the Office of Disciplinary Counsel. Provide written reports on findings.
- Prepare and submit a Trustees' Rule 9 Audit Program Report to the Trustees of the LFCP on a quarterly basis identifying the status of Compliance Reviews for the year.

Accountant for the Lawyers' Fund for Client Protection:

- Review monthly and annual financial statements and other reports prepared by Executive Director of the LFCP.
- Prepare year-end reports.
- Prepare cash flow projections as required.

Policies and Procedures:

- Update materials distributed to attorneys and others, as necessary and appropriate.
- Submit proposals for changes to rules, procedures, forms, etc., when appropriate.

Educational:

- Respond to inquiries from attorneys, their office staff, accountants and/or bookkeepers regarding compliance with Rules 1.15 (Appendix B) and 1.15A (Appendix C).
- Speak at seminars about compliance issues and proper record keeping for attorneys, their office staff, accountants and bookkeepers.
- Develop course for presentation to Certified Public Accountants (CPA's) to qualify them to perform pre-certification Compliance Reviews.
- Write, as necessary and appropriate, articles for *IN RE*: (monthly journal for Delaware attorneys) about required procedures or compliance issues.

Meetings and Hearings:

- Attend approximately three to four (3-4) meetings of the Trustees of the LFCP per year. Comment on significant aspects of the LFCP financial statements, a Trustees' Rule 9 Audit Program Report and other matters.
- Attend approximately two to three (2-3) LFCP Finance Committee Meetings per year. Discuss performance of stock and bond portfolios with LFCP money managers.
- Act as fact and/or expert witness as needed at Board on Professional Responsibility disciplinary hearings per year. (Note: Past experience indicates this would occur approximately three to four (3 to 4) times per year.)

Certificates of Compliance:

- Annual review of Certificates of Compliance submitted by attorneys (Appendix D) to DSC.

Other:

- The successful individual or firm contracted shall not receive fees and/or

commissions from any attorney and/or law firm being reviewed by the LFCP and/or the Office of Disciplinary Counsel.

- a) Term – The minimum length of the contract term is three (3) years with two (2) possible one (1) year extensions. However, an offeror should propose fixed terms up to five (5) years.
- b) Fixed Monthly Rates – Monthly rates must be the same for each month of a contract year or longer.

2) Form of Contract

Any contract resulting from this RFP must include the terms and conditions contained herein, subject to negotiation. Offers based upon different or inconsistent terms or conditions may be rejected.

3) Location of Services

An office within the Delaware Supreme Court/Arms of the Court will be provided in the Carvel State Office Building in Wilmington, Delaware for the individual's or firm's use. However, the nature of the work requires travel throughout the state for site visits to perform reviews at attorneys' offices. In addition, educational seminars will need to be presented in each county.

III. Proposal Procedures

A. Proposals

To be considered, all proposals must be submitted in writing and must respond to the items outlined in this RFP using the requested format. The LFCP-SCD reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with nine (9) copies in a sealed envelope conspicuously labeled “Lawyers’ Fund for Client Protection of the Supreme Court of Delaware – Compliance Reviewing, Accounting and Related Services Proposal.” The envelope should also contain the name, address and telephone number of the proposing individual or firm. If delivered by mail, the proposal shall be enclosed in an inner envelope labeled as indicated above.

All proposals must be delivered in person or by mail to:

Attention: Francis J. Jones, Jr., Esquire, Chair
Lawyers’ Fund for Client Protection
of the Delaware Supreme Court
c/o Bunny J. Christopher, Executive Director
Carvel State Office Building
820 N. French Street, 11th Floor
Wilmington, DE 19801

Any proposal submitted by mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than 4:00 p.m. on August 21, 2015. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing individual or firm bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

B. Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

IV. Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information may result in rejection of the proposal in the sole discretion of the LFCP-SCD:

A. Minimum Requirements

- (1) Delaware business license:
Provide evidence of a current Delaware business license.
- (2) Professional liability insurance:
Provide evidence of current professional liability insurance in the amount of \$1,000,000. The successful individual or firm may be required to secure and provide evidence of other insurance coverage in the amount of the funds administered on behalf of the Lawyers' Fund for Client Protection.
- (3) Certified Public Accountant (CPA) License:
Provide evidence of a current certified public accountant license.

B. General Evaluation Requirements

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information may result in rejection of the proposal in the sole discretion of the LFCP-SCD:

- (1) Offeror shall provide a detailed description, resume or curriculum vitae outlining the individual's or firm's overall experience and reputation, including resume(s)/curriculum vitae of key personnel proposed to be assigned to this project.
- (2) Offeror shall provide detailed information regarding specific expertise of the individual or firm, and key personnel proposed to be assigned to this project, in any or all of the areas outlined under Section II "Scope of Service" of this RFP, particularly as it relates to work or projects within the public sector.
- (3) Offeror shall provide detailed information on the individual's or firm's capacity to meet the requirements outlined under Section II "Scope of Service" of this RFP, including, but not limited to, size of individual or firm, key personnel proposed to be assigned (including their resume(s)/curriculum vitae, see item (1) above under this section), number of other projects/assignments/clients that would be on-going concurrent with this project, etc.

- (4) Offeror shall provide the geographical location of its headquarters as well as any branch office(s) from which key personnel involved with this project will work. In addition, if the headquarters or branch office(s) of the offeror is outside of the State of Delaware, offeror shall describe in detail its work and travel plans it proposes to meet the requirements under Section II “Scope of Service”.
- (5) Offeror should provide specific examples of projects completed that demonstrate the individual’s or firm’s ability to perform the work described under Section II “Scope of Service,” particularly examples involving projects in the public sector.
- (6) The Offeror **must** submit a copy of the most current peer review and a statement whether the quality control review included a government engagement. An Offeror **must** be in compliance with generally accepted government auditing standards (GAGAS) peer review requirements.
- (7) The Offeror **must** certify that it is not presently suspended or debarred within the past 5 years at (Appendix E). In addition, the firm **must** state that it has not been the subject of any disciplinary action¹ or under referral or inquiry from the AICPA or any State Board of Accountancy in the past five years.

Any firm ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

- (8) **Non-Collusion Statement:** The form, located at (Appendix E), **must** be completed and signed by an authorized representative of the firm.
- (9) Offeror should provide the proposed cost for providing the services outlined under Section II “Scope of Service” for a minimum of a three (3) year term. The offeror should also propose costs for the provision of such services up to a maximum of five (5) years so long as a schedule of costs for each contract year (Year 1, Year 2, Year 3, etc.) is outlined. The offeror shall provide the basis (fixed price, by unit, etc.) for the proposed cost to provide the services and any escalator used for subsequent contract years proposed.

¹ Disciplinary action includes conviction or a civil judgment rendered for (a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, (b) violation of Federal or State antitrust statutes, or (c) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(10) License to Practice in Delaware:

The applicant **must** provide:

(a) copies of valid Delaware CPA licenses or valid CPA licenses from a substantially equivalent jurisdiction as defined by the Uniform Accountancy Act (UAA) for all CPAs on the engagement team. A CPA who holds a valid license from any jurisdiction that is not on the substantially equivalent list² published by the National Association of State Boards of Accountancy (NASBA) may obtain verification from NASBA that such individual's CPA qualifications are substantially equivalent to the UAA. A copy of such verification **must** be included in the proposal.

LFCP-SCD will also accept screen shots of online license verification from both the State Boards of Accountancy and CPAverify.org, as long as all relevant information is provided in the screen shot, including the name of the state. The firm **must** also indicate the web address, with the date, this information was obtained from.

(b) a copy of a valid Delaware firm professional license, also known as a permit to practice, issued by the State Board of Accountancy. LFCP-SCD will accept the firm professional license in the same manner as described above for individual CPA licenses.

² <http://nasba.org/licensure/substantialequivalency/>

V. Evaluation Process

All proposals submitted in response to the RFP shall be reviewed by the Proposal Review Committee.

A. Proposal Review Committee

The Proposal Review Committee shall be comprised of the Trustees of the Lawyers' Fund for Client Protection and designees of the Delaware Supreme Court. The Committee shall determine the individuals or firms which meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del. C. Sections 6981, 6982. The Committee shall interview at least one of the qualified individuals or firms. The Committee may negotiate with one or more individuals or firms during the same period and may, at its discretion, terminate negotiations with any or all individuals or firms. The Committee shall make a recommendation regarding the award to the Delaware Supreme Court who shall have final authority, subject to the provisions of this RFP and 29 Del. C. Section 6982, to award a contract to the successful individual or firm in the best interests of the State of Delaware and the Lawyers' Fund for Client Protection.

B. Proposal Selection Criteria

The Proposal Review Committee shall assign up to the maximum number of points as stated in this Section for each Evaluation Item to each of the proposing individuals or firms. All assignments of points shall be at the sole discretion of the Proposal Review Committee.

The proposals all contain the essential information under which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the Lawyers' Fund for Client Protection of the Supreme Court of Delaware and the Proposal Review Committee to be essential for use by the Committee in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and to participate in the Proposal Review Committee's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Committee.

The Committee reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.

- Request modification to proposals from any or all contractors during the review and negotiation.
- Negotiate any aspect of the proposal with any individual or firm and negotiate with more than one individual or firm at the same time.

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Committee to evaluate proposals:

	Evaluation Item	Maximum Points
1)	Experience and Reputation - Offeror shall provide a detailed description, resume or curriculum vitae outlining the individual's or firm's overall experience and reputation, including resume(s)/curriculum vitae of key personnel proposed to be assigned to this project.	25
2)	Expertise (particular to project under consideration) - Offeror shall provide detailed information regarding specific expertise of the individual or firm, and key personnel proposed to be assigned to this project, in any or all of the areas outlined under Section II "Scope of Service" of this RFP, particularly as it relates to work or projects within the public sector.	15
3)	Capacity to meet requirements (size, financial condition, etc.) - Offeror shall provide detailed information on the individual's or firm's capacity to meet the requirements outlined under Section II "Scope of Service" of this RFP, including, but not limited to, size of individual or firm, key personnel proposed to be assigned (including their resume(s)/curriculum vitae, see 1) above under this section), number of other projects/assignments/clients that would be on-going concurrent with this project, etc.	15
4)	Location (geographical) - Offeror shall provide the geographical location of its headquarters as well as any branch office(s) from which key personnel involved with this project will work. In addition, if the headquarters or branch office(s) of the offeror is outside of the State of Delaware, offeror shall describe in detail its work and travel plans so as to meet the requirements under Section II "Scope of Service".	15
5)	Demonstrated Ability - Offeror shall provide specific examples of projects completed that demonstrate the individual's or firm's ability to perform the work described under Section II "Scope of Service," particularly examples involving projects in the public sector.	15

6)	Proposed Cost – Proposal Review Committee’s opinion regarding the Offeror’s proposed cost resulting in a quality, cost effective program.	15
----	---	----

TOTAL POINTS

100 Points

VI. Contract Conditions

The individual or firm awarded the contract under this RFP shall be subject at minimum, but not exclusively, to the following contractual provisions:

1. Term

The term of the contract between the successful individual or firm and the Lawyers' Fund for Client Protection (LFCP) shall be at minimum three (3) years in length with two (2) possible one (1) year extensions . The contract may be terminated by either party upon thirty (30) days written notice. In the event the successful individual or firm materially breaches any obligation under this Agreement, the Lawyers' Fund for Client Protection may terminate this Agreement upon thirty (30) days written notice.

2. Non-appropriation

In the event that the General Assembly fails to appropriate the specific funds necessary to continue the contractual agreement, in whole or in part, the agreement shall be terminated, as to any obligation of the Delaware Supreme Court requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

3. Notice

Any notice to the Delaware Supreme Court or the Lawyers' Fund for Client Protection required under this Agreement shall be sent by registered mail to:

Attention: Lawyers' Fund for Client Protection
of the Delaware Supreme Court
c/o Bunny J. Christopher, Executive Director
Carvel State Office Building
820 N. French Street, 11th Floor
Wilmington, DE 19801

4. Formal contract

The successful individual or firm shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after the award of the contract. No bidder is to begin any service prior to receipt of a fully executed original contract signed by authorized representatives of the individual or firm and the Lawyers' Fund for Client Protection.

5. Indemnification

By submitting a proposal, the proposing individual or firm agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, the Delaware Supreme Court, the Lawyers' Fund for Client Protection, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the individual's or firm's, its agents and employees' performance of work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or in part, to the State, Delaware Supreme Court, Lawyers' Fund for Client Protection, its employees or agents.

6. Performance

In performance of this contract the individual or firm is required to comply with all applicable federal, state and local laws, ordinances, codes and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful individual or firm. The individual or firm shall be properly licensed and authorized to transact business in the State of Delaware as provided in Delaware Code Title 30, Section 2502.

7. Insurance

The successful individual or firm shall maintain

- A. If applicable, Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- B. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, **and**
- C. Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate;

The successful individual or firm also may be required to secure and provide evidence of other insurance coverage in the amount of the funds administered on behalf of the Lawyers' Fund for Client Protection.

8. Non-discrimination

In performing the services subject to this RFP, the individual or firm agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful individual or firm shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

9. Non – Disclosure and Data³ Security Agreement

At no point will any information obtained for the purposes of this engagement be used in any transaction that does not include LFCP – DSC. Additional precautions must be taken if a Contractor uses cloud computing⁴ to perform the services of this Contract. If awarded the Contract, the Contractor must agree to the terms specified in (Appendix F) prior to the commencement of the engagement. The Contractor and its employees are forbidden from signing any agreements related to this engagement (e.g. non-disclosure agreements, data usage agreements, etc.) that are not presented directly by LFCP – DSC.

10. Confidentiality of Information

Any reports, information, data, etc. given to, prepared, or assembled by the Contractor under this Contract shall not be released or made available to any individual or organization by the Contractor without the prior written approval of LFCP-SCD. All information must be properly secured to prevent unauthorized access in accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, the Privacy Act of 1974 (as amended by the Computer Matching and Privacy Protection Act of 1988), the Federal Information Security Management Act of 2002, the Social Security Administration’s “Information System Security Guidelines for Federal, State, and Local Agencies Receiving Electronic Information from the Social Security Administration,” and related National Institute of Standards and Technology (NIST) guidelines. Notwithstanding the forgoing, the Contractor is authorized to disclose any information related to this Contract when required to by law, legal process, or applicable professional standards.

All Contractor staff working on this engagement may be required to have a criminal background check completed through a process approved by LFCP-SCD at the Contractor’s expense. Prior to staff commencing any work on any part of this engagement, each staff member may be required to sign the form at (Appendix G) of this Contract/RFP and submit to LFCP-SCD directly as part of the contract documentation and a successful criminal background check must be received by LFCP-SCD. If LFCP-SCD determines that, due to criminal convictions reported on the background check, a staff member cannot work on the engagement, the Contractor shall remove such staff from the engagement at the request of LFCP-SCD.

³ For the purposes of the Contract (including the Non-Disclosure & Data Security Agreements, if applicable), “data” does not include audit documentation required by the auditing standards.

⁴ The National Institute of Standards and Technology (NIST) defines cloud computing as a “model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort...”

Review working papers, summaries, and similar records must be retained electronically for at least three years after the completion of the engagement in accordance with the Delaware Public Archives Local Government General Records Retention Schedule.

At the end of the engagement all non-working papers (documents provided by the LFCP-SCD to Contractor) must be destroyed in all forms (e.g. disk, CD, DVD, paper) except those items required for audit documentation purposes. See (Appendix H).

11. Rejection of Individual Proposals

LFCP-SCD reserves the right to reject an individual proposal for the following reasons. Although this is not an exhaustive list, LFCP-SCD may reject the Contractor for any of the following reasons:

1. Demonstrating a lack of integrity from the proposing firm partner or principal within the last three years, which could jeopardize LFCP-SCD's interest. Factors may include, but are not limited to, any of the following:
 - a. A conviction of a criminal offense related to the performance of a contract or subcontract with LFCP-SCD or any State of Delaware agency, board, or authority.
 - b. A criminal conviction which negatively reflects on the vendor's business integrity, including but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, negligent misrepresentation, price-fixing, bid-rigging, or a violation of state or federal anti-trust statutes.
 - c. Suspension or loss of license from the AICPA or respective State Board of Accountancy for reasons that are relevant to the contract.
 - d. A loss or suspension of a business license or the right to do business in the State of Delaware.
 - e. Suspension or debarment by another state or the federal government.

12. Covenant against contingent fees

The successful individual or firm warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees bona-fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warranty the Lawyers' Fund for Client Protection shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

13. Contract Documents

The RFP and the executed Contract between the Lawyers' Fund for Client Protection (LFCP) and the successful individual or firm shall constitute the Contract between the LFCP-SCD and the individual or firm. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: Contract, then RFP. No other documents shall be considered. These documents contain the entire agreement between the LFCP and the individual or firm.

14. Applicable Law

The Laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful individual or firm consents to jurisdiction and venue in the State of Delaware.

15. Scope of Agreement

If the scope of any provision of this Contract is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

APPENDIX A

SUGGESTED REPORT FORMAT

(Independent CPA letterhead)

(Date)

Executive Director, Lawyers' Fund for Client Protection
Carvel State Office Building
820 North French Street, 11th Floor
Wilmington, DE 19801

Re: (Name of Attorney or Firm)
(Address)

Dear Executive Director:

We have performed an audit of our client, noted above, for the specific purpose of determining their (his/her) compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. The audit procedures used were those contained in the Audit Program of the Lawyers' Fund for Client Protection and this report relates only to those items.

Based on our audit, there were no findings/exceptions, and in our opinion (attorney/firm name) is in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct.

or

Based on our audit, (attorney/firm name) is not in compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. We found the following exceptions:

- 1)
- 2)
- 3)

These exceptions will be resolved as follows:

(Attorney/firm name) understands that our audit and submission of this report does not preclude an audit performed by the auditor of the Lawyers' Fund for Client Protection.

Enclosed is a copy of a completed Audit Program with appropriate work papers.

Very truly yours,

(CPA firm signature)

LAWYERS' FUND FOR CLIENT PROTECTION

Audit Program to Determine Compliance with Rule 1.15 and Rule 1.5(f) of the Delaware Lawyers' Rules of Professional Conduct

This completed audit program must be attached to your report.

Attorney _____ Audit Date _____

Audited by (Firm Name) _____

AUDIT OBJECTIVES

GENERAL

- I Attorney is in compliance with Rule 1.15 and Rule 1.5(f) and has properly answered all of the statements on the CERTIFICATE OF COMPLIANCE.

SPECIFIC

A. NON-FIDUCIARY FUNDS

1. Attorney maintains financial control over law practice.
2. Proper records are maintained.
3. Reconciliations are performed each month.

B. FIDUCIARY FUNDS

1. Client funds are safeguarded.
2. Proper records are maintained.
3. Reconciliations are performed each month.
4. There is no commingling of attorney funds and client funds.
5. Interest earned on client funds is either credited and/or paid to the client or the interest is credited and paid to IOLTA.

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index												
I	<p>GENERAL</p> <p>1. Obtain a copy of the latest ANNUAL REGISTRATION STATEMENT and the latest CERTIFICATE OF COMPLIANCE filed with the Supreme Court. (These forms are due by March 1 of each year)</p> <p style="padding-left: 20px;">a. If these forms were not filed when due, attach an explanation from the attorney indicating the date they will be filed.</p> <p style="padding-left: 20px;">b. Verify that all questions are answered properly.</p> <p style="padding-left: 20px;">c. A "NO" answer to any of the items on the CERTIFICATE OF COMPLIANCE indicates non-compliance. If there is a "NO" answer to any item, attach a letter from the attorney explaining the reason for non-compliance and a statement indicating when the attorney will be in compliance.</p> <p>2. Verify that all bank accounts (both fiduciary and non-fiduciary) are listed on the ANNUAL REGISTRATION STATEMENT and that all bank accounts for funds held in connection with the practice of law in Delaware are used solely for that purpose.</p> <p style="padding-left: 20px;">a. Obtain and attach to the audit report a copy of the first page of the latest bank statement for each bank account which the attorney or a member of the law firm has power to control, draw on or deposit in (including not only open accounts, but also any accounts open at any time during the prior calendar year).</p> <p style="padding-left: 20px;">b. If any bank accounts which the attorney or a member of the law firm has power to control, draw on or deposit in, (including not only open accounts, but also any accounts open at any time during the prior calendar year) is not listed, note here the omitted bank account information requested on the ANNUAL REGISTRATION STATEMENT.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">BANK NAME</th> <th style="text-align: left; border-bottom: 1px solid black;">ACCOUNT NAME</th> <th style="text-align: left; border-bottom: 1px solid black;">ACCOUNT NO.</th> </tr> </thead> <tbody> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> </tbody> </table> <p style="padding-left: 20px;">c. If a bank account, maintained in connection with the practice of law in Delaware, is located outside the state of Delaware, note here and indicate purpose.</p> <p style="padding-left: 20px;">d. If a bank account, maintained in connection with the practice of law in Delaware, also contains funds for the practice of law in another jurisdiction, note here and indicate purpose.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	BANK NAME	ACCOUNT NAME	ACCOUNT NO.												
BANK NAME	ACCOUNT NAME	ACCOUNT NO.														

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	<p>NON-FIDUCIARY FUNDS</p> <p><i>The period of review of records of non-fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p>			
A2	<p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the year to which they relate. These records are:</p> <ul style="list-style-type: none"> a. Bank statements, deposit tickets, and cancelled checks (or images and/or copies thereof as provided by the bank) b. Cash receipts and cash disbursements journals c. Monthly cash reconciliations 			
A1	<p>2. Obtain bank statements and review for NSF checks or overdraft balances other than those caused by deposits of client payments which were covered by the client or the attorney without undue delay. Attach detailed listing, if any, with the attorney's explanation.</p>			
A2	<p>3. Obtain cash receipts journal.</p> <ul style="list-style-type: none"> a. Determine that entries identify source and date. b. Ascertain that journal has monthly totals. c. Determine that cash receipts entries can be proved to deposit totals. 			
A2	<p>4. For each bank account, obtain cash disbursements journal.</p> <ul style="list-style-type: none"> a. Determine that entries show date, payee, and expense type. b. Ascertain that journal has monthly totals. 			
A3	<p>5. Audit monthly cash and bank reconciliations.</p> <ul style="list-style-type: none"> a. Manual system: <ul style="list-style-type: none"> + beginning cash balance + cash receipts (-) cash disbursements = ending cash balance/checkbook balance = adjusted bank balance <p style="text-align: center;">-or-</p> <ul style="list-style-type: none"> general ledger balance = adjusted bank balance b. Computer system: <ul style="list-style-type: none"> Check register (or general ledger) balance = adjusted bank balance 			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	<p>FIDUCIARY FUNDS</p> <p><i>The period of review of records of fiduciary funds transactions should be, at a minimum, the latest six months. Use separate audit program page for each account.</i></p> <p>ACCOUNT NAME _____</p> <p>BANK _____</p> <p>BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p>			
B2	<p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the fiduciary obligation. These records are:</p> <ul style="list-style-type: none"> a. Bank statements, deposit tickets, records of electronic transfers, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed. b. Cash receipts and cash disbursements journals c. Client subsidiary ledgers d. Monthly trial balances of subsidiary ledger e. Monthly cash reconciliations 			
B1	<p>2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p>			
B5	<p>3. Determine if IOLTA account. If not, and an interest-earning account, make certain that it is not a pooled account and that interest is credited to the client. (A pooled account must be an IOLTA account unless the law firm has a written exemption from participation in the IOLTA Program from the Delaware Bar Foundation).</p> <p><i>NOTE: Interest earned on client funds CANNOT be retained by the attorney.</i></p>			
B2	<p>4. Obtain cash receipts journal.</p> <ul style="list-style-type: none"> a. Determine that entries identify source and date. b. Ascertain that journal has monthly totals. c. Determine that cash receipts entries can be proved to deposit totals. 			
B2	<p>5. Obtain cash disbursements journal.</p> <ul style="list-style-type: none"> a. Determine that entries show date, payee, and client name. b. Ascertain that journal has monthly totals. 			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	FIDUCIARY FUNDS (CONTINUED)			
B3	<p>6. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding.</p> <p><i>NOTE: See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</i></p>			
B2	<p>7. Review client subsidiary ledger.</p> <p><i>NOTE: If a separate bank account has been set up for a specific client, transactions for that client must be recorded in a separate ledger account.</i></p> <p>a. Determine that a separate account is maintained for each client for whom monies or other property have been received in trust.</p> <p>b. Ascertain that all fiduciary transactions for cash receipts and cash disbursements (showing date, source/payee, and amount) are entered in the subsidiary ledger.</p> <p>c. Verify that a listing is prepared each month from the subsidiary ledger. The listing must show: Client name, client balance, and the grand total of all client balances.</p>			
B4	<p>8. Determine if any attorney funds are in the fiduciary account.</p> <p><i>NOTE: The attorney may maintain funds sufficient to pay bank service charges; however, such amount may not exceed \$2000 and must be separately stated and accounted for on the monthly listing.</i></p>			
B2	<p>9. Inquire whether the attorney has received any property for safekeeping from a client, other than cash. If so, verify whether a subsidiary ledger account has been set up showing date of receipt or disbursement, description of property received or disbursed, and the amount or value.</p>			
B3	<p>10. Verify that the reconciled end-of-month cash balance (see fiduciary audit procedure no. 6) agrees with the total of all client funds being held (see fiduciary audit procedure no. 7c).</p>			
B1	<p>11. Examine monthly listing of client balances for the following:</p> <p>a. Determine if any negative client balances (monies disbursed for client in excess of monies received for client). If any, attach details with attorney's explanation.</p> <p><i>NOTE: A negative client balance indicates that other client funds are being used to fund the negative balance. A check should be drawn immediately from the operating account and deposited in the fiduciary account to cover the negative balance.</i></p> <p>b. Determine age of client balances. If old balance, request reasons why funds have not been disbursed. Review documentation in client files, if necessary, to determine if good faith effort has been made to locate client and disburse funds.</p> <p><i>NOTE: See Supreme Court rule for disposition of old, unclaimed client balances and old fiduciary account undeliverable, outstanding checks.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	FIDUCIARY FUNDS (CONTINUED)			
B1, B4	<p>c. Ascertain that no client balance represents fees earned by the attorney. <i>NOTE: The failure to remove earned fees from the fiduciary account on a timely basis represents commingling of client funds and attorney funds.</i></p>			
B5	12. If any client funds are of significant amount and are held for a significant period of time, verify that a separate interest-earning bank account has been set up and the client was credited with the interest earned.			
B1	<p>13. To test the timely deposit of client funds, select five deposits from bank statements or deposit tickets and trace to supporting documentation in client files. <i>NOTE: Attach work paper, documenting test, to completed audit program.</i></p>			
B1	<p>14. Perform the following to test the proper disbursement of client funds:</p> <p>a. Select five cases from the client subsidiary ledger or monthly listing. b. Review documentation in client files that support financial transactions. c. Examine cancelled checks (or images and/or copies thereof as provided by the bank) and records of electronic transfers to verify disbursements. <i>NOTE: Attach work paper, documenting test, to completed audit program.</i></p>			
A1	15. Review federal, state, and city payroll tax returns and tax depositories to verify the timely filing and payment of payroll taxes.			
I	RETAINERS (Rule 1.5(f) and Comment)			
	16. Inquire whether the attorney accepts retainers (payments in advance of a service being performed and prior to fee being earned).			
B4	<p>17. Ascertain that retainers are being deposited in the escrow account.</p> <p>a. On a sample basis, trace deposits of large amount in operating account to transfer checks issued as earned fees from the escrow account. <i>NOTE: (1) Attach work paper, documenting test, to completed audit program.</i></p>			
B2	<p>18. Obtain copy of retainer agreement and determine that the agreement states:</p> <p>a. The fee is refundable if not earned. b. The basis under which the fee shall be considered to be earned.</p>			
B1	19. Make certain that, when earned fees are withdrawn from the escrow account, a statement is provided to the client showing the amount withdrawn and the remaining balance of the unearned retainer.			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
	<p>REAL ESTATE FUNDS</p> <p>NOTE: (1) A real estate bank account is a fiduciary account. (2) This audit program page is only necessary if a separate bank account is used exclusively for real estate settlement transactions. (3) Cash receipts and disbursements journals are not required for an account used exclusively for real estate settlement transactions.</p> <p>ACCOUNT NAME _____ BANK _____ BANK ACCOUNT NO. _____</p> <p>REVIEW PERIOD: From _____ to _____</p>			
B2	<p>1. Inquire whether the minimum required records are maintained for at least five years following the completion of the real estate transaction. These records are:</p> <p style="margin-left: 20px;">a. Bank statements, deposit tickets, records of electronic transfers, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed. b. Settlement sheets c. Other related documents</p>			
B1	<p>2. Obtain bank statements and review for NSF checks or overdraft balances. If any, attach detailed listing with attorney's explanation. (Disbursements from fiduciary accounts must be made from "good" funds.)</p>			
B5	<p>3. Determine if IOLTA account. If not, an interest-earning account, make certain that it is not a pooled account and that interest is credited to the client. (A pooled account must be an IOLTA account unless the law firm has a written exemption from participation in the IOLTA Program from the Delaware Bar Foundation).</p> <p style="margin-left: 20px;"><i>NOTE: Interest earned on client funds CANNOT be retained by the attorney.</i></p>			
B3	<p>4. Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding.</p> <p style="margin-left: 20px;"><i>NOTE: See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.</i></p>			
B3	<p>5. If the adjusted bank balance is a positive number, verify that it is in agreement with the total of the listing, by client, of funds being held.</p> <p style="margin-left: 20px;"><i>NOTE: This is a required monthly procedure.</i></p>			

**LAWYERS' FUND FOR CLIENT PROTECTION
AUDIT PROGRAM**

Audit Objective	AUDIT PROCEDURES	Performed by or N/A	Finding/Exception	Work-paper Index
B1	<p>REAL ESTATE FUNDS (CONTINUED)</p> <p>6. Perform the following to test whether deposits and disbursements are timely and proper.</p> <p style="margin-left: 20px;">a. Select five real estate settlements.</p> <p style="margin-left: 20px;">b. Vouch deposits to supporting documentation.</p> <p style="margin-left: 20px;">c. Examine cancelled checks and compare to documentation.</p> <p style="margin-left: 40px;"><i>NOTE: Attach work paper, documenting test, to completed audit program.</i></p>			

INQUIRIES ANSWERED BY:

NAME

POSITION

APPENDIX B

Rule 1.15 SAFEKEEPING PROPERTY
Delaware Lawyers' Rules of Professional Conduct

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account designated solely for funds held in connection with the practice of law in this jurisdiction. Except as provided in (g) with respect to IOLTA-eligible funds, such funds shall be maintained in the state in which the lawyer's office is situated or elsewhere with the consent of the client or third person. Funds of the lawyer that are reasonably sufficient to pay financial institution charges may be deposited in the separate account; however, such amount may not exceed \$2,000 and must be separately stated and accounted for in the same manner as clients' funds deposited therein. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after the completion of the events that they record.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.

(d) A lawyer engaged in the private practice of law must maintain financial books and records on a current basis, and shall preserve the books and records for at least five years following the completion of the year to which they relate, or, as to fiduciary books and records, five years following the completion of that fiduciary obligation. The maintenance of books and records must conform with the following provisions:

(1) All bank statements, cancelled checks (or images and/or copies thereof as provided by the bank), records of electronic transfers, and duplicate deposit slips relating to fiduciary and non-fiduciary accounts must be preserved. Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and

confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed

(2) Bank accounts maintained for fiduciary funds must be specifically designated as "Rule 1.15A Attorney Trust Account" or "1.15A Trust Account" or "Rule 1.15A Attorney Escrow Account" or "1.15A Escrow Account," and must be used only for funds held in a fiduciary capacity. A designation of the account as a "Rule 1.15A Attorney Trust Account" or "1.15A Trust Account" or "Rule 1.15A Attorney Escrow Account" or "1.15A Escrow Account," must appear in the account title on the bank statement. Other related statements, checks, deposit slips, and other documents maintained for fiduciary funds, must contain, at a minimum, a designation of the account as "Attorney Trust Account" or "Attorney Escrow Account."

(3) Bank accounts and related statements, checks, deposit slips, and other documents maintained for non-fiduciary funds must be specifically designated as "Attorney Business Account" or "Attorney Operating Account," and must be used only for funds held in a non-fiduciary capacity. A lawyer in the private practice of law shall maintain a nonfiduciary account for general operating purposes, and the account shall be separate from any of the lawyer's personal or other accounts.

(4) All records relating to property other than cash received by a lawyer in a fiduciary capacity shall be maintained and preserved. The records must describe with specificity the identity and location of such property.

(5) All billing records reflecting fees charged and other billings to clients or other parties must be maintained and preserved.

(6) Cash receipts and cash disbursement journals must be maintained and preserved for each bank account for the purpose of recording fiduciary and non-fiduciary transactions. A lawyer using a manual system for such purposes must total and balance the transaction columns on a monthly basis.

(7) A monthly reconciliation for each bank account, matching totals from the cash receipts and cash disbursement journals with the ending check register balance, must be performed. The reconciliation procedures, however, shall not be required for lawyers using a computer accounting system or a general ledger.

(8) The check register balance for each bank account must be reconciled monthly to the bank statement balance.

(9) Copies of retainer and compensation agreements with clients shall be maintained and preserved as required by Rule 1.5.

(10) Copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf shall be maintained and preserved.

(11) Copies of records showing disbursements on behalf of clients shall be maintained and preserved.

(12) With respect to all fiduciary accounts:

(A) A subsidiary ledger must be maintained and preserved with a separate account for each client or third party in which cash receipts and cash disbursement transactions and monthly balances are recorded.

(B) Monthly listings of client or third party balances must be prepared showing the name and balance of each client or third party, and the total of all balances.

(C) No funds disbursed for a client or third party must be in excess of funds received from that client or third party. If, however, through error funds disbursed for a client or third party exceed funds received from that client or third party, the lawyer shall transfer funds from the non-fiduciary account in a timely manner to cover the excess disbursement.

(D) The reconciled total cash balance must agree with the total of the client or third party balance listing. There shall be no unidentified client or third party funds. The bank reconciliation for a fiduciary account is not complete unless there is agreement with the total of client or third party accounts.

(E) If a check has been issued in an attempt to disburse funds, but remains outstanding (that is, the check has not cleared the trust or escrow bank account) six months or more from the date it was issued, a lawyer shall promptly take steps to contact the payee to determine the reason the check was not deposited by the payee, and shall issue a replacement check, as necessary and appropriate. With regard to abandoned or unclaimed trust funds, a lawyer shall comply with requirements of Supreme Court Rule 73.

(F) No funds of the lawyer shall be placed in or left in the account except as provided in Rule 1.15(a).

(G) No funds which should have been disbursed shall remain in the account, including, but not limited to, earned legal fees, which must be transferred to the lawyer's non-fiduciary account on a prompt and timely basis when earned.

(H) When a separate real estate bank account is maintained for settlement transactions, and when client or third party funds are received but not yet

disbursed, a listing must be prepared on a monthly basis showing the name of the client or third party, the balance due to each client or third party, and the total of all such balances. The total must agree with the reconciled cash balance.

(I) Only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account.

(J) Withdrawals from a client trust account shall be made only by check payable to a named payee and not to cash, or by authorized electronic transfer.

(13) If a lawyer maintains financial books and records using a computer system, the lawyer must cause to be printed each month a hard copy of all monthly journals, ledgers, reports, and reconciliations, and/or cause to be created each month an electronic backup of these documents to be stored in such a manner as to make them accessible for review by the lawyer and/or the auditor for the Lawyers' Fund for Client Protection.

(e) A lawyer's financial books and records must be subject to examination by the auditor for the Lawyers' Fund for Client Protection, for the purpose of verifying the accuracy of a certificate of compliance filed each year by the lawyer pursuant to Supreme Court Rule 69. The examination must be conducted so as to preserve, insofar as is consistent with these Rules, the confidential nature of the lawyer's books and records. If the lawyer's books and records are not located in Delaware, the lawyer may have the option either to produce the books and records at the lawyer's office in Delaware or to produce the books and records at the location outside of Delaware where they are ordinarily located. If the production occurs outside of Delaware, the lawyer shall pay any additional expenses incurred by the auditor for the purposes of an examination.

(f) A lawyer holding client or third-person funds must initially and reasonably determine whether the funds should or should not be placed in an interest or dividend-bearing account for the benefit of the client or third person. In making such a determination, the lawyer must consider the financial interests of the client or third person, the costs of establishing and maintaining the account, any tax reporting procedures or requirements, the nature of the transaction involved, the likelihood of delay in the relevant proceedings, and whether the funds are of a nominal amount or are expected to be held by the lawyer for a short period of time such that the costs incurred to secure income for the client or third person would exceed such income. A lawyer must at reasonable intervals consider whether changed circumstances would warrant a new determination with respect to the deposit of client or third-person funds. Except as provided in these Rules, interest or dividends earned on client or third-person funds placed into an interest or dividend-bearing account for the benefit of the client or third person (less any deductions for service charges or other fees of the depository institution) shall belong to the client or third person whose funds are deposited,

and the lawyer shall have no right or claim to such interest or dividends, and may not otherwise receive any financial benefit or other economic concessions relating to a banking relationship with the institution where any account is maintained pursuant to this Rule.

(g) A lawyer holding client or third person funds who has reasonably determined, pursuant to subsection (f) of this Rule, that such funds need not be deposited into an interest or dividend-bearing account for the benefit of the client or third-person must establish and maintain one or more pooled trust/escrow accounts in a financial institution in Delaware for the deposit of all client or third person funds held in connection with the practice of law in this jurisdiction that are nominal in amount or to be held by the lawyer for a short period such that the costs incurred to secure income for the client or third person would exceed such income (IOLTA-eligible funds). This requirement shall not apply to a lawyer who either has obtained inactive status pursuant to Supreme Court Rule 69(d) or has obtained a Certificate of Retirement pursuant to Supreme Court Rule 69(f). Each pooled trust/escrow account must be established as a pooled interest or dividend-bearing account (IOLTA Account) in compliance with the provisions of this Rule, except those accounts exempted under section (h)(7) below. The lawyer shall have no right or claim to such interest or dividends, and may not otherwise receive any financial benefit or other economic concessions relating to a banking relationship with the institution where any account is maintained pursuant to this Rule.

(h) Lawyers may maintain IOLTA Accounts only in financial institutions that are approved by the Lawyers' Fund for Client Protection pursuant to Rule 1.15A of these Rules, and are determined by the Delaware Bar Foundation (the Foundation) to be "eligible institutions". Eligible institutions are defined as those institutions that voluntarily offer a comparable interest rate on IOLTA Accounts and meet the other requirements of this Rule. A comparable interest on IOLTA Accounts means a rate that is no less than the highest rate of interest or dividends generally available from the institution to its non-IOLTA customers when IOLTA Accounts meet or exceed the same minimum balance or other account eligibility qualifications, if any. In determining the comparable interest rate or dividend, an eligible institution may consider factors, in addition to the IOLTA Account balance, customarily considered by the institution when setting rates of interest or dividends for its customers, provided that such factors do not discriminate against IOLTA Accounts.

(1) An eligible institution may satisfy the comparable interest rate requirement by electing one of the following three options:

(A) establish the IOLTA Account as the comparable interest rate product;

(B) pay the comparable interest rate on the IOLTA Account in lieu of actually establishing the IOLTA Account as the comparable interest rate product; or

(C) pay the "Safe Harbor Rate" on the IOLTA Account (as posted on the Foundation's website). Until redetermined by the Foundation, the Safe Harbor Rate is the higher of 0.65% per annum or 65% of the Federal Funds Target Rate as of the first day of the IOLTA Account earnings period, net of Allowable Reasonable Service Charges and Fees (as defined in section (h)(5) below). The Safe Harbor Rate shall be reevaluated periodically, but no more frequently than every six months, by the Foundation to reflect an overall comparable interest rate offered by financial institutions in Delaware and may be redetermined by the Foundation following such reevaluation. Upon any such redetermination, the Foundation shall give at least 90 days advance written notice of the effective date of such redetermination to all eligible institutions maintaining any IOLTA Accounts and by posting on its website. Election of the Safe Harbor Rate is optional and eligible institutions may instead choose to satisfy compliance with this Rule by electing instead either option (A) or (B) above.

(2) IOLTA Accounts may be established as:

(A) a business checking account with an automated investment feature in overnight daily financial institution repurchase agreements or money market funds. A daily financial institution repurchase agreement shall be fully collateralized by U.S. Government Securities (meaning U.S. Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States Government), and may be established only with an eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. A "money market fund" is an investment company registered under the Investment Company Act of 1940, as amended, that is qualified to hold itself out to investors as a money market fund under Rules and Regulations adopted by the Securities and Exchange Commission pursuant to said Act. A money market fund shall be invested solely in U.S. Government Securities, or repurchase agreements fully collateralized by U.S. Government Securities, and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

(B) a checking account paying preferred interest rates, such as market based or indexed rates;

(C) a public funds interest-bearing checking account such as an account used for governmental agencies and other non-profit organizations;

(D) an interest-bearing checking account such as a negotiable order of withdrawal (NOW) account; or business checking with interest; or

(E) any other interest or dividend-bearing account offered by the eligible institution to its non-IOLTA customers, which is commercially reasonable to use for a pooled account of short term or nominal amount funds.

(3) Nothing in this Rule shall preclude an eligible institution from paying a higher rate of interest or dividends on IOLTA Accounts than described above or electing to waive service charges or fees on IOLTA Accounts.

(4) Interest and dividends on IOLTA Accounts shall be calculated in accordance with the eligible institution's standard practice for non-IOLTA customers.

(5) "Allowable Reasonable Service Charges or Fees" for IOLTA Accounts are defined as per check charges, per deposit charges, an account maintenance fee, automated transfer ("sweep") fees, FDIC insurance fees, and a reasonable IOLTA administrative fee for the direct costs of complying with the reporting and payment requirements of this Rule. Allowable Reasonable Service Charges or Fees may only be deducted from interest or dividends on an IOLTA Account at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No service charges or fees other than Allowable Reasonable Service Charges and Fees may be assessed against or deducted from the interest or dividends on an IOLTA Account. No Allowable Reasonable Service Charges or Fees on an IOLTA Account for any reporting period shall be taken from interest or dividends earned on other IOLTA Accounts, or from the principal balance of any IOLTA Account. Any fees and service charges (other than Allowable Reasonable Service Charges and Fees deducted from interest on an IOLTA Account), including but not limited to bank overdraft fees, wire transfer fees, remote deposit fees and fees for checks returned for insufficient funds, shall be the sole responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLTA Account. Nothing in this Rule shall prohibit a lawyer or law firm maintaining an IOLTA Account from recouping fees charged to their IOLTA Account from the appropriate client on whose behalf the fee was incurred and as otherwise provided for in the Rules of Professional Conduct.

(6) Lawyers or law firms depositing client or third party funds in an IOLTA Account under this paragraph (h) shall direct the eligible institution:

(A) to remit interest monthly, or, with the consent of the Foundation, quarterly (net of any Allowable Reasonable Service Charges or Fees), computed on the average monthly balance in the account or otherwise computed in accordance with the institution's standard practices, provided that the eligible institution may elect to waive any or all such charges and fees;

(B) to transmit with each remittance to the Foundation a report in a form and through any reasonable manner of transmission approved by the Foundation showing the name of the lawyer or law firm on each IOLTA Account whose remittance is sent, the IOLTA Account number for each account, the amount of interest attributable to each IOLTA Account, the time period covered by the report, the rate of interest or dividend applied, the amount and type of Allowable Reasonable Service Charges or Fees deducted, if any, the average account balance for the period for which the report was made, the net amount of interest remitted for the period and such other information as may be reasonably required by the Foundation; and

(C) to transmit to the depositing lawyer or law firm a statement in accordance with normal procedures for reporting to depositors of the eligible institution.

(7) Any IOLTA Account which has not or cannot reasonably be expected to generate interest or dividends in excess of Allowable Reasonable Service Charges or Fees, may, under criteria established by the Foundation, be exempted by the Foundation from required participation in the IOLTA program. Exemption of an IOLTA account from the IOLTA program revokes the permission to use the Foundation's tax identification number for that account. The lawyer or law firm whose account has been exempted will annually certify to the Supreme Court, as part of its Annual Certificate of Compliance, that the lawyer or law firm expects no material increase in activity in its exempted trust/escrow account during the 12 months following the date of the filing of the Certificate. The Foundation will review exempted accounts and may revoke the exemption if it determines that the account can generate interest or dividends in excess of Allowable Reasonable Services Charges and Fees.

(8) In order for the Foundation to be able to determine that all pooled trust/escrow accounts are properly identified by the eligible institutions, each lawyer or law firm that maintains a pooled trust/escrow account is deemed to have authorized the Foundation to have access to the pooled trust/escrow account-related information contained within its Annual Certificate of Compliance, filed annually with the Supreme Court. In addition, when a lawyer or law firm requests an eligible institution to open an IOLTA Account, the lawyer or law firm will submit the request in writing to the institution, using the designated form letter located on the Foundation's website, with a copy of said letter to be sent to the Foundation by the lawyer or law firm.

(9) Should the Foundation determine that an IOLTA Account of a financial institution has failed to comply with the provisions of this Rule, the Foundation shall notify the affected lawyer or law firm and the financial institution of such failure to comply, specifying the corrective action needed, with a reasonable time specified by the Foundation for the compliance to be achieved, but no longer than 90 days. Should compliance not be achieved within the time specified, the

Foundation shall notify the affected lawyer or law firm, the financial institution and the Office of Disciplinary Counsel.

(i) The funds transmitted to the Foundation shall be available for distribution for the following purposes:

- (1) To improve the administration of justice;
- (2) To provide and to enhance the delivery of legal services to the poor;
- (3) To support law related education;
- (4) For such other purposes that serve the public interest;

The Delaware Bar Foundation shall recommend for the approval of the Supreme Court of the State of Delaware, such distributions as it may deem appropriate. Distributions shall be made only upon the Court's approval.

(j) Lawyers or law firms, depositing client or third party funds in a pooled trust/escrow account under this paragraph shall not be required to advise the client or third party of such deposit or of the purposes to which the interest accumulated by reason of such deposits is to be directed.

(k) A lawyer shall not disburse fiduciary funds from a bank account unless the funds deposited in the lawyer's fiduciary account to be disbursed, or the funds which are in the lawyer's unrestricted possession and control and are or will be timely deposited, are good funds as hereinafter defined. "Good funds" shall mean:

- (1) cash;
- (2) electronic fund ("wire") transfer;
- (3) certified check;
- (4) bank cashier's check or treasurer's check;
- (5) U.S. Treasury or State of Delaware Treasury check;
- (6) Check drawn on a separate trust or escrow account of an attorney engaged in the private practice of law in the State of Delaware held in a fiduciary capacity, including his or her client's funds;
- (7) Check of an insurance company that is authorized by the Insurance Commissioner of Delaware to transact insurance business in Delaware;

(8) Check in an amount no greater than \$ 10,000.00;

(9) Check greater than \$ 10,000.00, which has been actually and finally collected and may be drawn against under federal or state banking regulations then in effect;

(10) Check drawn on an escrow account of a real estate broker licensed by the state of Delaware up to the limit of guarantee provided per transaction by statute.

APPENDIX C

Rule 1.15A. Trust account overdraft notification

(a) Every attorney practicing or admitted to practice in this jurisdiction shall designate every account into which attorney trust or escrow funds are deposited either as 'Rule 1.15A Attorney Trust Account' or '1.15A Trust Account' or 'Rule 1.15A Attorney Escrow Account' or '1.15A Escrow Account,' pursuant to Rule 1.15(d)(2).

(b) Bank accounts designated as 'Rule 1.15A Attorney Trust Account' or '1.15A Trust Account' or 'Rule 1.15A Attorney Escrow Account' or '1.15A Escrow Account,' pursuant to Rule 1.15(d)(2) shall be maintained only in financial institutions approved by the Lawyers' Fund for Client Protection (the "Fund").

(c) The Supreme Court may establish rules governing approval and termination of approved status for financial institutions and the Fund shall annually publish a list of approved financial institutions. No trust or escrow account shall be maintained in any financial institution that does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon thirty (30) days notice in writing to the Fund.

(d) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument to the ODC no later than seven (7) calendar days following a request for the copy by the ODC.

(2) In the case of instruments that are presented against insufficient funds, but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby.

(e) Reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor. If an instrument presented against insufficient funds is honored, then the report shall be made within seven (7) calendar days of the date of presentation for payment against insufficient funds.

(f) Every attorney practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.

(g) Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable costs of producing the reports and records required by this rule.

(h) The terms used in this section are defined as follows:

(1) "Financial institution" includes banks, savings and loan associations, credit unions, savings banks and any other business or persons which accept for deposit funds held in trust by attorneys.

(2) "Properly payable" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of Delaware.

(3) "Notice of dishonor" refers to the notice which a financial institution is required to give, under the laws of Delaware, upon presentation of an instrument which the institution dishonors.

APPENDIX D

2015
DELAWARE SUPREME COURT
CERTIFICATE OF COMPLIANCE

Section One COC:

TO BE COMPLETED BY ALL DELAWARE LAWYERS

DECLARATION REGARDING PRACTICE

SUPREME COURT ID

FIRST
MI
LAST
SUFFIX

EMAIL 1

FIRM 1
ADDRESS
COUNTY
COUNTRY
PHONE 1
PHONE 2
FAX

DELAWARE
MANAGING PARTNER

Question 2 I am engaged in the practice of law in Delaware, and:

(A) My entire compensation derived from the practice of law is received in my capacity as an employee or independent contractor handling legal matters of a corporation(s) or government entity or agency, AND I am not responsible for funds or property of any person(s) except that of my employer.

(B) My entire compensation derived from the practice of law is received in my capacity as an employee or independent contractor of a real estate settlement service, title company, or similar entity which provides legal services and as part of the legal services holds funds for clients and/or third persons.

(C)(1) I am NOT responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm or otherwise.

(C)(2) I am NOT responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm or otherwise.

However, I AM responsible for the maintenance of financial books and records required to be disclosed herein associated with one or more accounts not under the control of the attorney named herein.

(D) I am responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm or otherwise.

(E) I am responsible for the maintenance of financial books and records required to be disclosed herein as the managing partner of a firm and this firm is not responsible for funds or property of any person in a fiduciary capacity.

(F) My practice of law is limited to uncompensated services to clients of one or more legal assistance programs AND I am not responsible for funds or property of any person in a fiduciary capacity.

Section Two COC: TO BE COMPLETED BY ACTIVE DELAWARE LAWYERS WHO ARE ENGAGED IN THE PRACTICE OF LAW IN DELAWARE and WHO ARE RESPONSIBLE FOR THE MAINTENANCE OF FINANCIAL BOOKS AND RECORDS REQUIRED TO BE DISCLOSED HEREIN AS THE MANAGING PARTNER OF A FIRM OR OTHERWISE Per Section One, (2) (B), (C(2)), (D), or (E).

PRE-CERTIFICATION (optional)

My Certification is based upon my own review, as well as the pre-certification attached hereto by the following independent certified public accountant, pursuant to the procedures set forth in Rule 9 of the Lawyers' Fund for Client Protection:

ACCOUNTANT NAME:

ACCOUNTANT FIRM:

PLEASE ANSWER EACH QUESTION YES OR NO AS TO ACCOUNTS REQUIRED TO BE DISCLOSED HEREIN.

**Question
2.1**

All federal, state and local payroll, gross receipts, and income taxes of the law firm required to be filed have been filed and all taxes due thereon have been paid on a timely basis.

NOTE: If answering "NO", provide specific information below, including which taxes were not filed or paid, the amounts of taxes due and the periods involved.

**Question
2.2**

Rule 1.15A account designation.

(A) Attorney trust/escrow account(s) are maintained ONLY with financial institutions that have agreed to comply with overdraft notification and which are identified by the Lawyers' Fund for Client Protection as Rule 1.15A-designated institutions.

(B) Each attorney trust/escrow account maintained is expressly designated on bank statements as a Rule 1.15A account in the account title.

NOTE: If an attorney trust/escrow account is not titled as a Rule 1.15A account on the bank statement, you are required to provide an explanation below, and you are also required to submit a copy of a bank statement after the financial institution correctly identifies the account as a Rule 1.15A account in the account title.

(C) All IOLTA accounts are maintained ONLY at eligible financial institutions determined by the Delaware Bar Foundation and posted on the Foundation's website, www.delawarebarfoundation.org.

**Question
2.3**

Any and all fiduciary funds held are maintained in an attorney trust/escrow account and in accordance with Rule 1.15(a) which requires fiduciary funds held in connection with the practice of law in Delaware be kept in a separate account designated solely for the Delaware practice.

**Question
2.4**

A separate bank account is maintained for non-fiduciary funds. Said account(s) is(are) expressly designated as "attorney business account" or "attorney operating account."

- Question 2.5** Other than the minimum amount of non-fiduciary funds allowable (no more than \$2000 to cover bank service charges), only funds held in a fiduciary capacity are held in any attorney trust/escrow account. Other funds, including earned fees, are not commingled with escrow funds.
- Question 2.6** Check register balances for all bank accounts are reconciled monthly to bank statement balances.
- Question 2.7** With respect to attorney trust/escrow account(s), there is a client subsidiary ledger maintained with monthly listings of client balances stating client name, balance, cash receipt and cash disbursement transactions, and the total of all client balances.
- Question 2.8** With respect to the client subsidiary ledger of the attorney trust/escrow account(s), negative balances did not exist OR if a negative balance did exist for any client, then a timely transfer was made from the operating or business account to cover the negative balance.
- Question 2.9** With respect to attorney trust/escrow account(s), the reconciled end-of-month cash balance agrees with the total of the client balance listing of the client subsidiary ledger.
- Question 2.10** With respect to attorney trust/escrow account(s), all fiduciary funds are identified.
- Question 2.11** With respect to attorney trust/escrow account(s), I have reviewed the fiduciary funds held, or caused them to be reviewed by the responsible attorney, and determined that they should continue to be held, and have rejected the need to disburse the funds or transfer the funds to a separate interest bearing account.

**Question
2.12**

With respect to attorney trust/escrow account(s), for those fiduciary funds which should be disbursed and for which checks have been issued in an attempt to disburse funds, all checks have cleared within six months from the date of issuance OR for each check which has not cleared within six months, steps are promptly being taken to contact the payees to determine the reason the checks were not deposited, and replacement checks are being issued, as necessary and appropriate; with regard to abandoned or unclaimed trust funds, these account(s) comply with Supreme Court Rule 73.

(State N/A to Questions 13 and 14 if a computer system is used.)

**Question
2.13**

A manual system is used to comply with Rule 1.15. Cash receipt and cash disbursement journals are maintained for each bank account for the recording of fiduciary and non-fiduciary transactions; and transaction columns are totaled and balanced each month.

**Question
2.14**

A manual system is used to comply with Rule 1.15. A general ledger is used; OR a reconciled monthly cash balance for each bank account is obtained by matching totals from the cash receipts and cash disbursement journals to the ending check register balance.

(State "N/A" to Question 15 if a manual system is used.)

**Question
2.15**

A computer system is used to comply with Rule 1.15. A hard copy of all financial records is printed each month or an electronic back up of these documents is created each month as required by Rule 1.15.

Section Three COC: TO BE COMPLETED BY ACTIVE DELAWARE LAWYERS WHO ARE ENGAGED IN THE PRACTICE OF LAW IN DELAWARE and WHO ARE RESPONSIBLE FOR THE MAINTENANCE OF FINANCIAL BOOKS AND RECORDS REQUIRED TO BE DISCLOSED HEREIN AS THE MANAGING PARTNER OF A FIRM OR OTHERWISE
Per
Section One, (2) (B), (C(2)), (D), or (E).

Question 3.1 Identify herein the following information for each attorney trust/escrow account required to be disclosed herein (i) which you or an attorney or an employee may draw on and/or has signatory authority, and (ii) in which funds of clients or other persons not associated with your firm are placed. Your identification of attorney trust/escrow accounts should include not only accounts open in 2015, but also any accounts open at any time during calendar year 2014.

FINANCIAL INSTITUTION	ACCOUNT TITLE	IOLTA
	ACCOUNT NUMBER	

Question 3.2 Identify herein the following information for each account in which funds are held (operating or business accounts) in connection with the practice of law, which you or an attorney or an employee may draw on and/or has signatory authority. Your identification of attorney operating/business accounts should include not only accounts open in 2015, but also any accounts open at any time during calendar year 2014.

FINANCIAL INSTITUTION	ACCOUNT TITLE
	ACCOUNT NUMBER

Question 3.3 Identify the address(es) where the books and records for accounts required to be disclosed herein are located:

Question 3.4 Identify the name and business address of the person(s) who maintain(s) the books and records for accounts required to be disclosed herein:

I HEREBY PERSONALLY CERTIFY TO THE DELAWARE SUPREME COURT THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

DATE:

SUPREME COURT ID:

SIGNATURE:

PREPARER'S NAME:

REVIEWED BY ATTORNEY?

APPENDIX E

APPENDIX E
LFCP-SCD Request for Proposal

Appendix E – Non-Collusion Statement & Debarment Statement

This is to certify that the undersigned Vendor has not, directly nor indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. The undersigned Vendor further certifies that it is not a subcontractor to another vendor who also submitted a proposal as a primary vendor in response to this solicitation.

Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Office of Lawyers' Fund for Client Protection of the Supreme Court of Delaware.

Company Name: _____

Authorized Representative: _____ Title: _____

Address: _____

Phone Number: _____ Email address: _____

Certification type(s)	Check all that apply
Minority Business Enterprise (MBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Woman Business Enterprise (WBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Veteran Owned Business Enterprise (VOBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Service Disabled Veteran Owned Business Enterprise (SDVOBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No

[The above table is for informational and statistical use only.]

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner, or proprietor been the subject of a Federal, State, or Local government suspension or debarment?

YES NO

If yes, please explain: _____

Signature: _____ Date: _____

SWORN TO AND SUBSCRIBED BEFORE ME this ____ day of _____, 20 ____

Notary Public: _____ Commission Expires: _____

City of _____ County of _____ State of _____

APPENDIX F

Appendix F
LFCP-SCD Request for Proposal

Appendix F – Non-Disclosure & Data Security Agreement for Contracted CPA Firms

We, _____ (the “Contractor”) agree to perform auditing services under our contract with the State of Delaware (“State”)⁷ through the Lawyers’ Fund for Client Protection of the Supreme Court of Delaware (“LFCP-SCD”) captioned as LFCP-SCD Original Contract Number [Contract Number] (the “Contract”) to perform and complete the [Description of Engagement] for, *inter alia*, the fiscal year(s) ending [Date(s)] (the “Audit”). In that capacity, and in the performance of our Audit- related duties, we acknowledge and understand the following:

1. The State shall at all times own all right, title and interest in data and information, regardless of format, as set forth in the Contract. We shall not access State user accounts or State data, except as required by the express terms of the Contract. We acknowledge and agree that we shall have no right, title, or interest in such data and information.

2. We shall protect confidential information⁸ and proprietary information⁹ to ensure that there is no inappropriate or unauthorized use or disclosure of State information at any time. To this end, we shall safeguard the confidentiality, integrity, and availability of confidential information and proprietary information and comply with the following conditions:

- a) Personally identifiable information (PII)¹⁰ obtained by us is and shall remain property of the State.
- b) At no time shall any data or processes which either belongs to or are intended for the use of the State or its officers, agents, or employees, be copied, disclosed, or retained by us for subsequent use in any transaction that does not include the State.
- c) No use shall be made of any information collected in connection with the services provided under the Contract except as necessary to fulfill the auditing services required under the Contract.
- d) PII, confidential information, and proprietary information shall be safeguarded from loss, theft, or inadvertent disclosure at all times.
- e) Desktop computers, laptops, tablets, cell phones and all other portable electronic devices/media containing PII and/or confidential information and/or proprietary information shall be encrypted and/or password protected.
- f) The disclosure of information and details relating to a PII loss shall be limited to those who need to know for purposes contemplated under the Contract.
- g) All State, non-public data in transit via Secure FTP shall be encrypted, including data that resides on mobile devices.

⁷ “State” as used here (and hereinafter) shall mean the State of Delaware and any agency or instrumentality of the State of Delaware.

⁸ “Confidential Information” includes, without limitation, tax returns and related information, driver performance records, financial data, claimant or employer names and addresses, and social security and tax identification numbers.

⁹ “Proprietary Information” includes, without limitation, cost or pricing data, government spending plan data, contractor technical qualifications data, independent government cost estimates, negotiation strategies and contractor data presented in negotiations, contracting plans, statements of work, together with information about the design and configuration of system, application, network and access information.

¹⁰ Personally identifiable information is defined in 6 Del. C. § 12B-101(4), and includes a resident’s name in combination with the resident’s Social Security Number, Driver’s License number, Delaware Identification Card number or bank account or credit or debit card numbers.

Appendix F
LFCP-SCD Request for Proposal

- h) Management of our firm (up to and including the engagement partner) is responsible for clarifying what may represent PII or sensitive data/information and how to ensure adequate safeguards are in place to protect such information.
3. State data shall not be stored or transferred outside of the United States except to the extent permitted in the Contract. This includes backup data and data stored at disaster recovery locations.
4. We shall account for all copies of State data that we obtain during the course of the audit engagement, and we shall not disclose such data to any person or entity except to the extent the Contractor is permitted to disclose information as provided in the Contract.
5. We understand our responsibilities under 6 *Del. C.* Ch. 12B (“Computer Security Breach”) and the importance of compliance with the notification provisions of that chapter in the event that a data breach occurs. We further acknowledge that we have read 6 *Del. C.* § 12B-104 that sets forth the enforcement procedures available to the Attorney General in the event of a violation of chapter 12B.
6. Within 24 hours of the discovery of any security breach or suspicious intrusion involving State data, we shall disclose to LFCP-DSC, in writing, the occurrence of such breach or intrusion and the assets that might have been breached or disclosed.
7. It is understood we are bound by and must comply with all applicable State and Federal laws relating to confidentiality, privacy and non-disclosure. We further understand that the State may seek any remedy available to it to enforce this agreement, including, but not limited to, application for a Court order prohibiting disclosure of information in breach of this agreement. Nothing in this agreement shall affect the applicability or enforcement of the Delaware Return Secrecy Statute (30 *Del. C.* § 368) or corresponding provisions of Federal law (26 U.S.C. §6103(i)(1)); Delaware Bank Franchise Tax Return secrecy statute (5 *Del. C.* §1113); Delaware Department of Labor confidentiality statute (19 *Del. C.* § 3125); Delaware Department of Technology and Information Internal Policy on Confidentiality (Non-disclosure) and Integrity of Data dated 1/3/06 (Doc. Ref. No. DTI-0065); Delaware Department of Transportation confidentiality statute regarding the release of motor vehicle driving history and license records (21 *Del.C.* § 305); HIPAA and the accompanying implementing Administrative Simplification regulations (45 C.F.R. parts 142, 160, 162, and 164) to the extent those laws, regulations, and policies apply to the information covered by this agreement.
8. We understand that Federal tax information received from the IRS and the SSA may be accessed by agency personnel only. This includes file transfers. We understand that unauthorized inspection and use of Federal tax information, such as fax transmittals that are not addressed to Contractor engagement staff or the extraction of Federal tax information that is outside the scope of the engagement can result in civil and criminal penalties under the Internal Revenue Service Code §§ 7213, 7213(A) and 7431 for unauthorized inspection. These penalties include fines, not to exceed \$5,000 and/or five (5) years imprisonment, plus any cost of prosecution.
9. Without limitation of additional legal bases, pursuant to the State of Delaware Constitution of 1897 at Art. VIII, §§ 3 and 6, and 29 *Del.C.* § 6519(a) the State of Delaware is not at all permitted to agree to any limitation on liability.

Appendix F
LFCP-SCD Request for Proposal

10. We understand that we shall promptly contact LFCP-SCD, in writing, unless prohibited by law from providing such notice, upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to, State data. Further, we shall not respond to subpoenas, service of process, and other legal requests related to the State without first notifying LFCP-SCD, in writing, unless prohibited by law from providing such notice.
11. We understand that our staff may be subject to clearance through the State's Security Clearance Program prior to the review of any State data.
12. We agree to safeguard any password or security codes provided to us during the course of this engagement.
13. We agree to follow the Contractor's security procedures and ensure that all data and information relative to this engagement is properly stored, encrypted on portable devices, and password protected at all times.
14. We understand our liability for any losses experienced by the State or any remediation costs associated with a breach and that the State will pursue whatever legal means necessary to recover all such losses and costs, as well as any appropriate equitable relief to prevent unauthorized disclosures.
15. We understand that data shall be permanently deleted in accordance with the terms of the Contract and shall not be recoverable, according to the National Institute of Standards and Technology (NIST) approved methods except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. Certificates of destruction must be provided to the LFCP-SCD.
16. We understand that we are expected to comply with sections 4.40 through 4.44 of the Generally Accepted Government Auditing Standards as to reporting confidential and sensitive information.
17. We understand nothing in this agreement shall be interpreted in such a way as to relieve the Contractor from its duty to comply with auditing standards, including AICPA ET Section 301.
18. The obligations imposed herein do not extend to information or data which:
 - a) is in the public domain at the time of receipt or which comes into the public domain thereafter through no fault of the Contractor;
 - b) is disclosed with the prior written approval of the designated Contracting Officer of the applicable State entity;
 - c) is determined to have been developed by the Contractor independently of disclosures made hereunder; or
 - d) is disclosed pursuant to Court order after prior notification to the designated Contracting Officer of the applicable State entity.
19. If we subcontract with a Service Provider for cloud or offsite hosting of State data, we agree to assume liability for any noncompliance by the Service Provider. Nothing contained herein or in any subcontractor agreement with the Service Provider shall be construed as creating any contractual relationship between the Service Provider and the State.

Appendix F
LFCP-SCD Request for Proposal

Our signature below represents our agreement with the items above for the duration of the Contract and until engagement work papers are properly destroyed under the terms of the Contract. The signature of the authorized representative is of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Lawyers' Fund for Client Protection of the Supreme Court of Delaware.

Contractor:

[NOT TO BE COMPLETED UNTIL A FIRM HAS BEEN AWARDED THE CONTRACT]

Print Name	Title	Signature	Date
------------	-------	-----------	------

APPENDIX G

Appendix G
LFCP-SCD Request for Proposal

Appendix G – Non-Disclosure & Data Security Agreement for Individual Audit Staff

I, _____, am a(n) _____ performing certain auditing services on behalf of [Name of Firm] (the “Contractor”) under its contract with the State of Delaware (“State”)¹¹ through the Lawyers’ Fund for Client Protection of the Supreme Court of Delaware (“LFCP-SCD”) captioned as LFCP-SCD Original Contract Number [Contract Number] (the “Contract”) to perform and complete the [Description of Engagement] for, *inter alia*, the fiscal years ending [Engagement Period] (the “Audit”). In that capacity, and in the performance of my Audit- related duties, I acknowledge and understand the following:

1. The State shall at all times own all right, title and interest in data and information, regardless of format, as set forth in the Contract. I shall not access State user accounts or State data, except as required by the express terms of the Contract. I acknowledge and agree that I shall have no right, title, or interest in such data and information.
2. I shall protect confidential information¹² and proprietary information¹³ to ensure that there is no inappropriate or unauthorized use or disclosure of State information at any time. To this end, I shall safeguard the confidentiality, integrity, and availability of confidential information and proprietary information and comply with the following conditions:
 - a) Personally identifiable information (PII)¹⁴ obtained by me is and shall remain property of the State.
 - b) At no time shall any data or processes which either belongs to or are intended for the use of the State or its officers, agents, or employees, be copied, disclosed, or retained by me for subsequent use in any transaction that does not include the State.
 - c) No use shall be made of any information collected in connection with the services provided under the Contract except as necessary to fulfill the auditing services required under the Contract.
 - d) PII, confidential information, and proprietary information shall be safeguarded from loss, theft, or inadvertent disclosure at all times.

¹¹ “State” as used here (and hereinafter) shall mean the State of Delaware and any agency or instrumentality of the State of Delaware.

¹² “Confidential Information” includes, without limitation, tax returns and related information, driver performance records, financial data, claimant or employer names and addresses, and social security and tax identification numbers.

¹³ “Proprietary Information” includes, without limitation, cost or pricing data, government spending plan data, contractor technical proposal data, independent government cost estimates, negotiation strategies and contractor data presented in negotiations, contracting plans, statements of work, together with information about the design and configuration of system, application, network and access information.

¹⁴ Personally identifiable information is defined in 6 Del. C. § 12B-101(4), and includes a resident’s name in combination with the resident’s Social Security Number, Driver’s License number, Delaware Identification Card number or bank account or credit or debit card numbers.

Appendix G LFCP-SCD Request for Proposal

- e) Desktop computers, laptops, tablets, cell phones and all other portable electronic devices/media containing PII and/or confidential information and/or proprietary information shall be encrypted and/or password protected.
 - f) The disclosure of information and details relating to a PII loss shall be limited to those who need to know for purposes contemplated under the Contract.
 - g) All State, non-public data in transit via Secure FTP shall be encrypted, including data that resides on mobile devices.
 - h) Clarification shall be obtained from the Contractor's management (up to and including the engagement partner) on what may represent PII or sensitive data/information and how to ensure adequate safeguards are in place to protect such information.
3. State data shall not be stored or transferred outside of the United States except to the extent permitted in the Contract. This includes backup data and data stored at disaster recovery locations.
4. I shall account for all copies of State data that I obtain during the course of the audit engagement, and I shall not disclose such data to any person or entity except to the extent the Contractor is permitted to disclose information as provided in the Contract.
5. I understand my responsibilities under 6 *Del. C.* Ch. 12B ("Computer Security Breach") and the importance of compliance with the notification provisions of that chapter in the event that a data breach occurs. I further acknowledge that I have read 6 *Del. C.* § 12B-104 that sets forth the enforcement procedures available to the Attorney General in the event of a violation of chapter 12B.
6. Within 24 hours of the discovery of any security breach or suspicious intrusion involving State data, I shall disclose to the Contractor engagement partner and to LFCP-DSC, in writing, the occurrence of such breach or intrusion and the assets that might have been breached or disclosed.
7. It is understood I am bound by and must comply with all applicable State and Federal laws relating to confidentiality, privacy and non-disclosure. I further understand that the State may seek any remedy available to it to enforce this agreement, including, but not limited to, application for a Court order prohibiting disclosure of information in breach of this agreement. Nothing in this agreement shall affect the applicability or enforcement of the Delaware Return Secrecy Statute (30 *Del. C.* § 368) or corresponding provisions of Federal law (26 U.S.C. §6103(i)(1)); Delaware Bank Franchise Tax Return secrecy statute (5 *Del. C.* §1113); Delaware Department of Labor confidentiality statute (19 *Del. C.* § 3125); Delaware Department of Technology and Information Internal Policy on Confidentiality (Non-disclosure) and Integrity of Data dated 1/3/06 (Doc. Ref. No. DTI-0065); Delaware Department of Transportation confidentiality statute regarding the release of motor vehicle driving history and license records (21 *Del. C.* § 305); HIPAA and the accompanying implementing Administrative Simplification regulations (45 C.F.R. parts 142, 160, 162, and 164) to the extent those laws, regulations, and policies apply to the information covered by this agreement.
8. I understand that Federal tax information received from the IRS and the SSA may be accessed by agency personnel only. This includes file transfers. I understand that unauthorized inspection and use of

Appendix G LFCP-SCD Request for Proposal

Federal tax information, such as fax transmittals that are not addressed to [Name of Firm] engagement staff or the extraction of Federal tax information that is outside the scope of the engagement can result in civil and criminal penalties under the Internal Revenue Service Code §§ 7213, 7213(A) and 7431 for unauthorized inspection. These penalties include fines, not to exceed \$5,000 and/or five (5) years imprisonment, plus any cost of prosecution.

9. Without limitation of additional legal bases, pursuant to the State of Delaware Constitution of 1897 at Art. VIII, §§ 3 and 6, and 29 *Del.C.* § 6519(a) the State of Delaware is not at all permitted to agree to any limitation on liability.

10. I understand that I shall promptly contact the Contractor engagement partner and LFCP-SCD, in writing, unless prohibited by law from providing such notice, upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to, State data. Further, I shall not respond to subpoenas, service of process, and other legal requests related to the State without first notifying the Contractor engagement partner and LFCP-SCD, in writing, unless prohibited by law from providing such notice.

11. I understand that I may be subject to clearance through the State's Security Clearance Program prior to the review of any State data.

12. I agree to safeguard any password or security codes provided to me during the course of this engagement.

13. I agree to follow the Contractor's security procedures and ensure that all data and information relative to this engagement is properly stored, encrypted on portable devices, and password protected at all times.

14. I understand my personal liability for any losses experienced by the State or any remediation costs associated with a breach and that the State will pursue whatever legal means necessary to recover all such losses and costs, as well as any appropriate equitable relief to prevent unauthorized disclosures.

15. I understand that data shall be permanently deleted in accordance with the terms of the Contract and shall not be recoverable, according to the National Institute of Standards and Technology (NIST) approved methods except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. Certificates of destruction must be provided to the LFCP-SCD.

16. I understand that I am expected to comply with sections 4.40 through 4.44 of the Generally Accepted Government Auditing Standards as to reporting confidential and sensitive information.

17. I understand nothing in this agreement shall be interpreted in such a way as to relieve the Contractor from its duty to comply with auditing standards, including AICPA ET Section 301.

18. The obligations imposed herein do not extend to information or data which:
a) is in the public domain at the time of receipt or which comes into the public domain thereafter through no fault of the Contractor;

Appendix G
LFCP-SCD Request for Proposal

- b) is disclosed with the prior written approval of the designated Contracting Officer of the applicable State entity;
- c) is determined to have been developed by the Contractor independently of disclosures made hereunder; or
- d) is disclosed pursuant to Court order after prior notification to the designated Contracting Officer of the applicable State entity.

My signature below represents my agreement with the items above for the duration of my assignment and until engagement work papers are properly destroyed under the terms of the Contract.

Printed Name: _____

Position: _____

[NOT TO BE COMPLETED UNTIL A FIRM
HAS BEEN AWARDED THE CONTRACT]

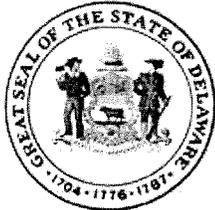
Signature & Date: _____

APPENDIX H

Appendix H
Request for Proposal

Appendix H – Certificate of Sanitization

At the end of each year's engagement and at the expiration of the firm's retention period, the firm must seek written permission from the assigned Engagement Liaison prior to destroying any engagement-related records.



State of Delaware

CERTIFICATE OF SANITIZATION		
PERSON PERFORMING SANITIZATION		
Name:	Title:	
Organization:	Location:	Phone:
MEDIA INFORMATION		
Make/Vendor:	Model Number:	
Serial Number:		
Media Property Number:		
Media Type:	Source (ie user name or PC property number):	
Classification:	Data Backed Up: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Backup Location:		
SANITIZATION DETAILS		
Method Type: <input type="checkbox"/> Clear <input type="checkbox"/> Purge <input type="checkbox"/> Damage <input type="checkbox"/> Destruct		
Method Used: <input type="checkbox"/> Degauss <input type="checkbox"/> Overwrite <input type="checkbox"/> Block Erase <input type="checkbox"/> Crypto Erase <input type="checkbox"/> Other:		
Method Details:		
Tools Used (include version):		
Verification Method: <input type="checkbox"/> Full <input type="checkbox"/> Quick Sampling <input type="checkbox"/> Other:		
Post Sanitization Classification:		
Notes:		
MEDIA DESTINATION		
<input type="checkbox"/> Internal Reuse <input type="checkbox"/> External Reuse <input type="checkbox"/> Recycling Facility <input type="checkbox"/> Manufacturer <input type="checkbox"/> Other (specify in details area)		
Details:		
SIGNATURE		
I attest that the information provided on this statement is accurate to the best of my knowledge.		
Signature:	Date:	
VALIDATION		
Name:	Title:	
Organization:	Location:	Phone:
Signature:	Date:	