

**REQUEST FOR PROPOSAL
FOR
FINANCIAL AUDITING SERVICES**

**PACT PROGRAM
STATE TREASURER OF ALABAMA**

**Release Date: February 1, 2023
Proposal Due Date: March 17, 2023**

BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT COMPLIANCE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act (§§31-13-1 et. seq, Code of Alabama, 1975 as amended by Act 2012-491) regulates illegal immigration in the State of Alabama. All contracts with the State or a political subdivision thereof must comply with that law.

For the purposes of this RFP and any responding Proposal, the following sections of that law impose specific requirements: Section 9 (a) of the Act provides “As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or a state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.”

Section 9(b) of the Act requires “As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or a state-funded entity to a business entity or employer that employs one or more employees within the State of Alabama, the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E-Verify program.”

As provided in the Act a “**business entity**” is *any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit* and an “**employer**” is defined as *any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.*

A Proposal must include a statement that the Proposer has knowledge of this law and is in compliance. Before a contract is signed, the Contractor awarded the contract must submit a Certificate of Compliance using the form at Exhibit D to this RFP and, unless exempt because it has no employees in the State of Alabama, a complete copy of the Memorandum of Understanding issued by the United State Department of Homeland Security upon enrollment in the E-Verify Program. E-Verify enrollment can be accomplished at the website of the United States Department of Homeland Security at <http://www.uscis.gov>.

See Section 10 for additional language required by Section 9(k) of the Act to be included in the contract.
Rev.5-14-13

1. Overview

Alabama Treasurer Young Boozer (hereinafter “Treasurer”), at the direction of the Board of Directors (hereinafter “Board”) of the Prepaid Affordable College Tuition Program (hereinafter “PACT”, “Program”) solicits proposals from qualified professional firms interested in providing financial auditing services (hereinafter “Firm”) to PACT. The Board is empowered to administer the Program by §16-33C-5, Code of Alabama, (1975).

This Request for Proposals (“RFP”) is issued in accordance with the requirements of §41-16-72(4), Code of Alabama (1975). This RFP is not an offer to contract but seeks the submission of proposals from qualified, professional firms that may form the basis for negotiation of a contract or agreement.

2. Background

PACT is a qualified 529 prepaid college savings program whereby prepaid college tuition contracts were sold to purchasers to pay, in advance, college tuition and qualified fees for beneficiaries. The program is no longer open to enrollment. This program is administered by the State Treasurer in accordance with the statute and the rules, regulations and guidelines established by the Board.

A class action settlement was entered into between PACT Class Members and the PACT Board of Directors and Trustees in 2011 to establish a baseline monetary amount to be remitted in the future as payment of tuition and qualified fees under PACT contracts. The settlement is expressly conditioned upon the appropriations of earmarked funds to the PACT Trust Fund as set forth in Act 2010-725.

Actuarial reports, financial reports and additional information about PACT is available at treasury.alabama.gov/pact.

As of September 30, 2022, PACT has 7,949 active contracts and a market value of trust assets in the amount of \$238,576,509. Of this amount, \$209,169,230 is in fixed income securities and \$29,407,279 in cash. Cash may be held to facilitate payments. During fiscal year 2022, \$42,281,431 was paid out on behalf of 9774 students. During this same time, PACT received \$219,618 in payments towards contracts and processed contract cancellation refunds in the amount of \$2,609,736. In May of 2022, a prepayment of all remaining funds owed from the Education Trust Fund to the State Treasurer’s Office was received in the amount of \$177,373,600. Actuary expectations are that the Program will make its last payment in the year 2032.

3. Minimum Qualifications

In order to be considered for selection, the Firm must provide Exhibit C as documented proof that the following minimum qualifications listed below are met. The Firm has a continuing obligation to disclose information throughout the RFP process should any qualifications or situations change that might render the Firm as an unqualified candidate.

- a. The Firm selected will comply with all state regulations to conduct business in the State of Alabama and will qualify with the Secretary of State, if applicable. (To download the form for a “Certificate of Existence”, access sos.state.al.us, business services, or call 334-242-5324 to Request the form).
- b. The Firm has been providing similar auditing services for at least five (5) years.
- c. The managing auditor assigned to this program has been in this position for at least five (5) years.

- d. The Firm and its personnel are in compliance with Section 101-15 of the American Institute of Certified Public Accountants Code of Professional Conduct regarding an audit firm's independence. The interpretation specifically states that an account owner of a Section 529 prepaid tuition plan is considered to have a direct financial interest in that plan and, therefore is not independent with respect to the plan.
- e. The Firm and its personnel have all authorizations, permits, licenses, and certifications as may be required under federal, state or local law to perform the services specified in this RFP at the time it submits a response to the RFP.
- f. The Firm will carry errors and omissions insurance or comparable instrument to cover negligent acts or omissions.
- g. The Firm maintains sufficient procedures and capabilities to ensure the timely and accurate backup and full recovery for all computers and other data storage systems related to the PACT account.
- h. The Firm has a company policy and practice of equal employment opportunity and non-discrimination based on race, creed or gender.
- i. The Firm will comply with *The Beason-Hammon Alabama Taxpayer and Citizen Protection Act*.

4. Proposal Required Information

Proposals should be as thorough and detailed as possible so that your capabilities to provide the required services can be properly evaluated.

To be considered, responses to the RFP must include:

- a. A brief transmittal letter
- b. Exhibit A, Proposal
- c. Exhibit B, Statement of Fees
- d. Exhibit C, Minimum Qualifications
- e. Exhibit D, Certificate of Compliance
- f. Disclosure Statement
- g. Other Documents:
 - (1) Sample of contracts and all other standardized forms and letters which you propose to be used for this transaction.
 - (2) List of software licenses or agreements that PACT would be required to procure in order to fully utilize your services

All proposals submitted in response to this RFP must include one original and completed Disclosure Statement as required by Section 41-16-80, et seq., Cole of Alabama (1975). Copies of the Disclosure Statement, and information, may be downloaded from the Alabama Attorney General's web site at ago.alabama.gov/File-AL-Vendor-Disclosure-Statement.

5. Scope of Services

The Firm shall perform financial audits which will improve and ensure the efficiency, effectiveness, security, and internal controls of the Program. The services to be provided include but are not limited to:

- a. Render a professional opinion on the fair presentation of the PACT's basic financial statements, prepared in accordance with accounting principles generally accepted in the United States of America for each of the respective fiscal years ending September 30th.
- b. Conduct the annual audit in accordance with auditing standards generally accepted in the United States of America, promulgated by the American Institute of Certified Public Accountants; *Government Auditing Standards*, issued by the Comptroller General of the

United States. The audit shall be performed in compliance with all applicable laws and requirements of the State of Alabama. The draft audit report for each fiscal year shall be issued by the following January 15 and final audit report issued by January 31, or as agreed otherwise.

- c. Promptly notify PACT in writing of any audit findings, irregularities, or indications of illegal acts observed.
- d. Provide various reports, including reports on internal control related to the financial statements, and compliance with laws and regulations.
- e. Attend the Board of Directors' meeting and make a presentation to summarize the overall audit and report to the Board at the conclusion of each audit, if requested.
- f. Retain all records, working papers and other documents for three years after final payment, and such records shall be made available at the request of PACT at no additional charge.
- g. Provide specialized accounting records request analysis, production and/or advisory services in the event of unanticipated events, litigation, extensive or complex voluminous records requests on an ad hoc basis.
- h. Provide consultations with the Board and PACT staff as requested. The subject matter for requested consultations shall not be limited to those which directly concern an audit, but may also include written or oral correspondence concerning subjects of general relevance to and in support of Auditor's relationship with PACT as its client.

6. Submission of Proposals

Issuing Office. The State Treasurer serves as Chairman to the Board and, in this capacity, is issuing the RFP on behalf of the Board.

Office of State Treasurer Young Boozer
Alabama State Capitol
600 Dexter Avenue, Suite S106
Montgomery, Alabama 36104
Phone: 334-242-7501

Submission Deadline. It is the responsibility of the Firm to ensure that its proposal is timely delivered and received in the Treasurer's Office on or before 5:00 p.m. on March 17, 2023. . Email the electronic response to: Brittany.matthews@treasury.alabama.gov. If your response includes confidential trade secrets or proprietary information, also send an electronic version with those sections redacted in the event a public information request for your response is received (see Section 10 for additional information).

Questions and Inquiries. The sole point of contact for purposes of this RFP is Anita Kelley. Any questions or inquiries should be directed to anita.kelley@treasury.alabama.gov by March 13, 2023 to ensure a timely response. Any oral communications shall be considered unofficial and nonbinding on the Board.

Rejection of all Proposals. The Board reserves the right to reject any or all proposals and/or to solicit additional proposals if that is determined to be fiscally advantageous to the Board or otherwise in its best interests.

7. Efforts to Influence Selection Process Prohibited

The integrity of the RFP process is of primary importance and will not be compromised. Any written or oral communications beyond the RFP Response made by responders, or others on

their behalf, whether paid or unpaid, to influence the selection process, from the time the RFP is issued through the execution of the contract, made directly or indirectly to the Treasurer, Board members or Treasury staff will be grounds for immediate elimination from the selection process.

8. Evaluation and Selection

After the review and evaluation of the proposals, the Board may conduct interviews. Finalists chosen for interviews, if necessary, will be notified. The Board will select the Firm the Board determines, in its sole discretion, to be fully qualified and best suited among those submitting proposals to meet the needs of PACT in a cost-effective manner. The Board reserves the right to request a best and final offer for fees.

9. Agreement

All duties of the Firm shall be set forth in a contract agreement between the Firm and the Board. It is expected the term of the contract will be for a five-year period. The contract will incorporate reference to the requirements of the RFP and the Firm's proposal as negotiated.

In compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (§31-13-9(k), Code of Alabama, 1975, as amended), the contract will include the following language:

“By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.”

In compliance with Act 2016-312, §1. (§41-16-5, Code of Alabama, 1975, as amended) the contract will include the following language:

“The contractor hereby certifies that it is not currently engaged in, and will not engage in the boycott of a person or entity based in or doing business with a jurisdiction with Which this state can enjoy open trade.”

You are charged with knowledge that there are certain terms standard to most commercial contracts in private sector use which the Board is prevented by law and policy from accepting. These include (1) indemnification and hold harmless of the vendor or third parties, (2) consent to choice of law and venue other than the State of Alabama, (3) methods of dispute resolution other than negotiation and non-binding mediation, (4) waivers of subrogation and other rights against third parties and (5) some provisions limiting damages to the cost of goods or services.

10. Fees

The Firm shall be entitled to receive compensation in arrears upon receipt of invoice.

11. Public Information

All responses received will be subject to the Alabama Open Records Act, §36-12-40, Code of Alabama and may be subject to public disclosure upon request. The Open Records Act is remedial and should therefore be liberally construed in favor of the public. The Alabama Trade

Secrets Act is §8-27-1 through §8-27-6, Code of Alabama. Firms are cautioned to be familiar with these statutes. The burden is on the one asserting the trade secret to show that the information sought to be protected meets the definition of a Trade Secret as defined in the Act.

Any RFP response submitted that contains confidential, trade secrets or proprietary commercial information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as such. Identification of the entire proposal as confidential is not acceptable unless the Firm enumerates the specific grounds or applicable laws which support treatment of the entire material as protected from disclosure according to the foregoing statutes or other applicable Alabama law.

The owner of the confidential information shall indemnify and hold the State of Alabama, the State Treasurer, the Board, and Treasury staff harmless from all costs or expenses, including but not limited to attorney fees and expenses related to litigation concerning disclosure of said information and documents.

Exhibit A **Proposal**

Part I. Organization

- A. Provide an overview of your firm, including corporate profile, firm experience, quality control procedures, ownership structure, financial condition, and overall business objectives.
- B. Provide a listing of all vendors or subcontractors your firm will partner with to provide services to PACT.
- C. Provide a listing of all “related” or “affiliated” firms.
- D. Provide details of any past or pending litigation relating to your firm, individual personnel, or to the management of client assets.
- E. Provide details of any claims, disputes, litigation or other legal proceedings where your firm is involved with the State of Alabama or any of its agencies, or has been involved, in the three preceding years.

Part II. Personnel

Provide biographies of the person/persons/or team members who will be assigned to this account.

Part III. Account Management

- A. Provide the following information on at least three clients (including contact persons for whom similar services as described in this RFP are provided):
 - 1. Company
 - 2. Address
 - 3. Contact
 - 4. Telephone Number
 - 5. Length of Relationship in Years
 - 6. Services Provided
- B. Describe your pertinent experience in providing financial auditing services to 529 Qualified Tuition Plans or similar programs.

Part IV. Financial Auditing Services

- A. Describe your firm’s process for conducting annual financial audits and rendering professional opinions of PACT’s financial statement.
- B. Describe your process for notifying PACT of any potential material findings or irregularities and the process for resolution.
- C. The fiscal year end for the Program is September 30th and the audit should be concluded and draft financials available by January 15th. Final audit should be concluded and submitted by January 31st. Can your firm comply with these deadlines? What is the proposed timeline for concluding the audit in the timeframe? Describe your work plan and how much time will be spent on-site reviewing records, etc.?
- D. Will your firm provide support services (financial management and technical assistance of no more than 15 hours per year) to the Program in the event there is pending litigation, legislation, etc.? Are there additional costs for these services? Explain.
- E. What is your retention policy for all documents, records and working papers?
- F. If selected, describe the process and proposed timeline for transitioning to your firm. Include the steps required for the transition and the responsible party for each. If current provider, describe the process to assist in the transition to another firm.

G. Describe reasons the Board should consider your firm more favorably than your competitors. Include any value-added services you feel makes your firm superior to others.

EXHIBIT B
Statement of Fees

Provide a proposed Fee Schedule for a five-year timeframe for the services described in this RFP. Compensation is paid in arrears based on periodic invoices submitted and itemized in sufficient detail for a proper review and confirmation to be performed.

Any charge for services not addressed in the Fee Schedule in your proposal will not be allowed during the course of the contract. Fees will not increase during the term of the contract unless designated in your response.

The Fee Schedule can propose a separate fee for any service not described in this RFP but which the Firm provides for other programs which might be beneficial.

Please provide your pricing for the Annual Fee in the table below:

Contract Year	Contract Amount
1	
2	
3	
4	
5	

EXHIBIT C
Minimum Qualifications

A. The Firm will comply with all state regulations to conduct business in the State of Alabama and will register with the Secretary of State, if applicable.

Yes No

B. The Firm has been providing similar auditing services for at least five (5) years.

Yes No

C. The managing auditor assigned to the program has been in this position for at least five (5) years.

Yes No

D. The Firm and its personnel are in compliance with Section 101-15 of the American Institute of Certified Public Accountants Code of Professional Conduct regarding and audit firm's independence.

Yes No

E. The Firm and its personnel have all authorizations, permits, licenses, and certifications as may be required under Federal, State or local law to perform the services specified in this RFP at the time it submits a response to the RFP.

Yes No

F. The Firm carries errors and omissions insurance or a comparable instrument, in an amount acceptable to the Board, to cover the firm's negligent acts or omissions.

Yes No

G. The Firm maintains sufficient procedures and to ensure the timely and accurate backup and full recovery for all computers and other data storage systems related to this account.

Yes No

H. The Firm has a company policy and practice of equal employment opportunity and non-discrimination based on race, creed or gender.

Yes No

I. The Firm will comply with State of Alabama Beason-Hammon Alabama Taxpayer and Citizen Protection Act regarding immigration.

Yes No

EXHIBIT D

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)

RE Contract/Grant/Incentive (describe by number or subject):

_____ **by and**
between _____
(Contractor/Grantee) and _____ **(State Agency or**
Department or other Public Entity)

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, is authorized to provide the representations that are set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Applying the following definitions from the Section 3 of the Act, the Contractor/Grantee business structure is as indicated by my initials.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:

- a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
- b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

- _____ a. The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.
- _____ b. The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien, as that term is defined in Section 3 of the Act, within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

{Alien is any person who is not a citizen or national of the United States, as described in 8 U.S.C. § 1101, et seq., and any amendments thereto.}
{Unauthorized Alien is an alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).}

4. Contractor/Grantee is enrolled in E-Verify unless *{initial the following selections which apply}*:

_____ (a) it is not eligible to enroll because of the rules of that program or other factors beyond its control.

_____ (b) it is excused from the requirement of enrollment in E-Verify because it does not have an employee in the State of _____ Alabama.

Certified this _____ day of _____ 20__.

Name of Contractor/Grantee/Recipient

By:

Its

The above Certification was signed in my presence by the person whose name appears above, on this _____ day of _____ 20__.

WITNESS _____

Print Name of Witness