

VIRGINIA529

REQUEST FOR PROPOSALS FOR RFP (22-01)

Issue Date:

Title:

Issuing Agency: Virginia529
Commonwealth of Virginia
9001 Arboretum Parkway
North Chesterfield, VA 23236

Period of Contract:

PROPOSALS WILL BE RECEIVED UNTIL: October 8, 2021 (8pm EST)

In compliance with Request for Proposals RFP #22-01 and subject to all the conditions imposed herein, the undersigned offers and agrees to furnish Call Center as a Service in accordance with the attached proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

By

Signature

Date:

Federal EIN:

Telephone Number:

Email Address:

NOTE: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4343.1 or against a firm because of race, religion, color, sex, national origin, age disability, or any other basis prohibited by state law relating to discrimination in employment.

***Please attach an executed copy of this form to the front of the proposal submitted**

STATEMENT OF CONFIDENTIALITY

Some of the information shared in this document from Virginia College Savings Plan (Virginia529) may be proprietary and confidential pursuant to the provisions of the Virginia Freedom of Information Act (VFOIA) (Virginia Code §§ 2.2-3700 et seq.). For the information identified as confidential by Virginia529, firm will provide appropriate and adequate measures to preserve the confidentiality of any information concerning Virginia529's operations. Firm agrees not to disclose any of the confidential information or make it available to others without prior written permission of Virginia529.

Ownership of Proposals. Ownership of all data, materials and documentation originated and prepared for Virginia529 pursuant to the RFP shall belong exclusively to Virginia529 and be subject to public inspection in accordance with VFOIA.

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[Appendix A: Business Requirements](#)

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[Appendix C: RFP Pricing Spreadsheet](#)

1. INSTRUCTIONS TO BIDDERS

This section is informational only; Virginia529 requires no response to this section.

The purpose of this request for proposals (RFP) is to solicit proposals from qualified firms for Call Center as a Service for Virginia529. The document also provides context for further discussions with qualified firms.

1.1 INSTRUCTIONS.

See appendix A: Business Requirements
See Appendix B: Business Requirements (Detailed)
See Appendix C: RFP Pricing Spreadsheet

2. GENERAL TERMS AND CONDITIONS

2.1 EXECUTION.

Execution and submission of a response to this RFP shall constitute agreement to all terms and conditions specified in the RFP, except such terms and conditions that the Firm expressly asks to exclude. Requests for exceptions to the general contractual provisions in this Section 4 will be taken into consideration as part of the evaluation process. Virginia529 reserves the right to negotiate final contract terms with the selected firm. A final Agreement will be executed incorporating the following: The Agreement; the RFP and the selected firm's proposal; any modifications and clarifications thereto that are submitted at the request of Virginia529 during evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence; the final executed Agreement; the RFP; any approved modifications and clarifications to the selected firm's proposal; and the selected firm's proposal.

2.2 APPLICABLE LAWS AND COURTS.

1. This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia. The venue for any claim or dispute arising out of or related to this Agreement shall be in state court located in Chesterfield County, Virginia. The firm shall comply with all applicable federal, state, and local laws, rules and regulations.

2.3 ANTI-DISCRIMINATION.

By submitting their proposals, firms certify to Virginia529 that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, and where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and

programs funded with public funds shall be subject to audit by the public body. (Code of Virginia § 2.2-4343.1E).

2.3.1 During the performance of this contract, the firm agrees as follows:

2.3.1.1 The firm will not discriminate against any employee or applicant for Employment because of race, religion, color, sex national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the firm. The firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause including the names of all contracting Commonwealth agencies with which the Contracting Party has contracts of over \$10,000.

2.3.1.2 The firm, in all solicitation or advertisements for employees placed by or on behalf of the firm, will state that such firm is an equal opportunity employer. However, notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of Virginia Code § 2.2-4200.

2.3.1.3 Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2.4 ETHICS IN PUBLIC CONTRACTING.

By submitting their proposals, firms certify that their Proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other firm, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

2.5 IMMIGRATION REFORM AND CONTROL ACT OF 1986.

By entering into a written contract with Virginia529, the firm certifies that the firm does not, and shall not during the performance of the contract; knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

2.6 DEBARMENT STATUS.

By submitting their proposals, firms certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

2.7 ANTITRUST.

By entering into a contract, the firm conveys, sells, assigns, and transfers to Virginia529 all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by Virginia529 under said contract.

2.8 MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs:

- 2.8.1 Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, Virginia529 reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.

2.9 CLARIFICATION OF TERMS.

If any firm has questions about the specifications or other solicitation documents, the firm should contact the person identified in Appendix A, Business Requirements, in writing no later than 9/23/2021, 8:00 P.M. EST. Any revisions to the solicitation will be made only by addendum issued by Virginia529.

2.10 PAYMENT.

- 2.10.1 Firm shall submit itemized invoices for services, including a description of such services, preferably by electronic mail, directly to finance@virginia529.com or by mail to Controller, 9001 Arboretum Parkway, North Chesterfield, Virginia, 23236. All invoices shall show firm's federal employer identification number.
- 2.10.2 Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- 2.10.3 All goods or services provided under this contract that are to be paid for with public funds shall be billed by the firm at the contract price, regardless of which public agency is being billed.
- 2.10.4 The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 2.10.5 Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, firms should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, Virginia529 shall promptly notify the firm, in writing, as to those charges which it considers unreasonable and the basis for the determination. A firm may not institute legal action unless a settlement cannot be reached within 30 days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).
- 2.10.6 Payments to Subcontractors. A firm awarded a contract under this solicitation is hereby obligated to pay any pre-approved subcontractor(s) within 7 days of the firm's receipt of payment received for work performed by the subcontractor(s) under the contract; or to notify Virginia529 and the subcontractor(s), in writing, of the firm's intention to withhold payment and the reason.

2.11 PRECEDENCE OF TERMS.

The following named terms in this Section 4. General Terms and Conditions shall apply in all instances: APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT. In the event there is a conflict between

any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

2.12 QUALIFICATIONS OF FIRMS.

Virginia529 may make such reasonable investigations as deemed proper and necessary to determine the ability of the firm to perform the services/furnish the goods and the firm shall furnish to Virginia529 all such information and data for this purpose as may be requested. Virginia529 reserves the right to inspect the firm's physical facilities prior to award to satisfy questions regarding the firm's capabilities. Virginia529 further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such firm fails to satisfy Virginia529 that such firm is properly qualified to carry out the obligations of the contract and to provide the services and or furnish the goods contemplated therein.

2.13 TESTING AND INSPECTION.

Virginia529 reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

2.14 ASSIGNMENT OF CONTRACT.

A contract shall not be assignable by the firm in whole or in part without the written consent of Virginia529.

2.15 CHANGES TO THE CONTRACT.

The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

2.16 DEFAULT.

In case of failure to deliver goods or services in accordance with the contract terms and conditions, Virginia529, after due oral or written notice, may procure them from other sources and hold the firm responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which Virginia529 may have.

2.17 INSURANCE.

By signing and submitting a bid or proposal under this solicitation, the firm certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. If any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with applicable state law. The firm further certifies that the firm and its subcontractors will maintain this insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

- 2.17.1 Workers' Compensation – Statutory requirements and benefits.
Coverage is compulsory for employers of three or more employees, to include the employer. Firms who fail to notify Virginia529 of increases in the number of employees

that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.

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

2.17.3 Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. Virginia529 must be named as an additional insured and so endorsed on the policy.

2.18 ANNOUNCEMENT OF AWARD.

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, Virginia529 will publicly post such notice on the Agency's website for a minimum of 10 days.

2.19 DRUG-FREE WORKPLACE.

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

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

2.20 NONDISCRIMINATION OF FIRMS.

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

2.21 AVAILABILITY OF FUNDS.

It is understood and agreed between the parties herein that Virginia529 shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

2.22 BID PRICE CURRENCY.

Unless stated otherwise in the solicitation, firms shall state offer prices in US dollars.

2.23 AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH.

A firm organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

2.24 INDEMNIFICATION.

Firm agrees to indemnify, defend, and hold harmless Virginia529, its board members, employees, and agents, with respect to any demand, cause of action, debt, or liability, including reasonable attorneys' fees and costs, to the extent based upon a claim that: (i) arises out of the negligence, recklessness, or willful misconduct of Firm or (ii) alleges that the Work Product, Third Party IP or the services performed by Firm pursuant to this Agreement infringe or otherwise violate any intellectual property right of any third party.

2.25 HANDLING AND TREATMENT OF CONFIDENTIAL PERSONAL INFORMATION.

- 2.25.1 At all times during and after the provision of services to Virginia529, firm shall hold any and all nonpublic personal information, as defined in Section 6809 of the Gramm-Leach-Bliley Act corresponding regulations, (Confidential Personal Information) in strict confidence for use solely in connection with its obligations hereunder. Firm shall not disclose or disseminate or permit any employee, agent or other person to disclose or disseminate the existence, source, content or substance of any Confidential Personal Information to any other third party. Furthermore, firm shall limit its disclosure of the Confidential Personal Information to employees within its own organization whom Virginia529 could reasonably expect to have a legitimate need to have access to such Confidential Personal Information in order to accomplish the obligations of this Agreement.
- 2.25.2 The parties agree that all Confidential Personal Information concerning Virginia529's customers (including prospective and former customers) to which firm has access in connection with this Agreement shall be deemed to be Confidential Personal Information of Virginia529. Firm shall have access (and may afford access to third parties) to such information only as necessary to carry out firm's obligations hereunder and that such information shall not be used for any purpose other than as provided for herein. Such Confidential Personal Information may not be disclosed to any third party without the express written consent of Virginia529 and as may be required or permitted under applicable law. Such information shall be accessed and disposed of (i) in accordance with the requirements of applicable law (including, without limitation, the privacy and security provisions of the federal Gramm-Leach-Bliley Act and applicable regulations and the provisions of the federal Fair Credit Reporting Act and applicable regulations), (ii) consistent with the initial, annual and/or amended privacy notices of Virginia529, and (iii)

otherwise in accordance with the provisions of this Agreement. Firm shall be responsible for any breach of this Agreement by any of its employees, agents, and representatives, and agrees, at its sole expense, to take all necessary measures to restrain its employees, agents, and representatives from prohibited or unauthorized disclosure or use of the Confidential Personal Information in violation of this Agreement. Firm agrees that they shall at all times protect the security and confidentiality of such information and maintain security measures in accordance with the regulations implementing the federal Gramm-Leach-Bliley Act's provisions relating to the safeguarding and security of customer information and shall employ the same standard of care as with their own Confidential Personal Information, which in any case shall not be less than reasonable care. Upon Virginia529's request, firm shall afford Virginia529, its agents, employees and third party auditors access and assistance necessary to review, audit and verify to Virginia529 the adequacy of such security measures and the compliance of firm with those measures. The expenses of such reviews, audits and auditors shall be borne by Virginia529.

- 2.25.3 Nothing in this Agreement will prohibit or limit firm's use of Confidential Personal Information which (a) was in firm's possession or was previously known to firm before it was disclosed to firm or its personnel by Virginia529; (b) is or becomes publicly available through no breach by firm of this Agreement; (c) is received by firm from a third party (other than Virginia529 or its representatives) who has a lawful right to disclose such information without any known obligation to restrict its further use or disclosure; or (d) is independently developed by firm without use of or reference to Virginia529's Confidential Personal Information. In addition, firm will not be considered to have breached its obligations under this Agreement to the extent Confidential Personal Information is required to be disclosed by any court or other governmental or regulatory authority or body, provided firm, to the extent practicable, advises Virginia529 prior to making such disclosure in order that Virginia529 may object to such disclosure, take action to ensure confidential treatment of the Confidential Personal Information, or take such other action as it considers appropriate to protect the Confidential Personal Information.

2.26 HANDLING AND TREATMENT OF PROPRIETARY INFORMATION.

- 4.26.1 "Proprietary Information" means all information, technology, data, patents, trademarks, copyrights or applications, know-how, processes, design, specifications, samples, inventions, ideas, past, current and planned research and development, current and planned sales and distributions methods and processes, customer lists, current and anticipated customer requirements, price lists and financial information, trade secrets or confidential or proprietary information designated in writing or orally as confidential by Virginia529. Proprietary Information also means any notes, analyses, compilations, studies, interpretations, memoranda, copies, derivative works, or other documents prepared by firm or its employees, agents and representatives that contain, reflect or are based upon, in whole or in part, Proprietary Information furnished to firm, including its employees, agents and representatives, pursuant to this Agreement. Without limiting the generality of the foregoing, Proprietary Information shall also be deemed to include all lists or other compilations that identify Virginia529 or business partners (including customer lists), and any other Virginia529 confidential information regardless of whether such information has been designated as confidential or proprietary information.
- 2.26.2 Firm (including its employees, agents, and representatives who are permitted to review Proprietary Information pursuant to the third sentence of this paragraph), shall use the Proprietary Information only for the purpose of providing the services contemplated by the parties to this Agreement, and the Proprietary Information shall not be used for any other

purpose without the prior written consent of Virginia529. Firm, including its employees, agents, and representatives, shall hold in confidence, and shall not disclose to any third party any Proprietary Information of Virginia529; provided, however, that firm may make any disclosure of such information to which Virginia529 gives its prior written consent or which is required by law, regulation or decree. Proprietary Information may only be disclosed to the employees, agents and representatives of firm who: (i) are necessary to carry out firm's obligations hereunder, and (ii) are informed of the confidential nature of such information and of the terms of this Agreement. Firm shall be responsible for any breach of this Agreement by any of its employees, agents, and representatives, and agrees, at its sole expense, to take all necessary measures to restrain its employees, agents, and representatives from prohibited or unauthorized disclosure or use of the Proprietary Information in violation of this Agreement.

- 2.26.3 Nothing in this Agreement will prohibit or limit firm's use of Proprietary Information which (a) was in firm's possession or was previously known to firm before it was disclosed to firm or its personnel by Virginia529; (b) is or becomes publicly available through no breach by firm of this Agreement; (c) is received by firm from a third party (other than Virginia529 or its representatives) who has a lawful right to disclose such information without any known obligation to restrict its further use or disclosure; or (d) is independently developed by firm without use of or reference to Virginia529's Proprietary Information. In addition, firm will not be considered to have breached its obligations under this Agreement to the extent Proprietary Information is required to be disclosed by any court or other governmental or regulatory authority or body, provided firm, to the extent practicable, advises Virginia529 prior to making such disclosure in order that Virginia529 may object to such disclosure, take action to ensure confidential treatment of the Proprietary Information, or take such other action as it considers appropriate to protect the Proprietary Information.

2.27 **SEXUAL HARASSMENT POLICY AND TRAINING.**

- 2.27.1 For Agreements over \$10,000: if the firm employs more than five employees, it shall (i) provide annual training on the firm's sexual harassment policy to all supervisors and employees providing services in the Commonwealth of Virginia (Commonwealth), except such supervisors or employees that are required to complete sexual harassment training provided by the Commonwealth's Department of Human Resource Management (DHRM), and (ii) post the firm's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the firm owns or leases for business purposes and (b) the firm's employee handbook. For more information on DHRM training, please visit: www.dhrm.virginia.gov/public-interest/contractor-sexual-harassment-training.

2.28 **Subcontract/Purchase Order**

- 2.28.1 For Agreements over \$10,000: the firm shall include the provisions of this agreement's sections entitled "Anti-discrimination and "Sexual Harassment Policy and Training" in every subcontract or purchase order under this Agreement of over \$10,000, so that such provisions shall be binding upon each subcontractor or vendor in accordance with Va. Code § 2.2-4201.

2.29 **Headings**

2.29.1 All section headings contained in this Agreement are for the sole purpose of clarification and convenience of reference and are not intended to limit or expand the scope of any provision of this Agreement.

2.30 No Waiver of Sovereign Immunity or Contractual Breach

2.30.1 Nothing in this Agreement shall be deemed or construed as an express or implied waiver of the sovereign immunity of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth of Virginia. Failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

2.31 Audit

2.31.1 The firm shall retain all books, records, and other documents relative to this Agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. VA529, its authorized agents, or Commonwealth auditors shall have full access to and the right to examine any such materials during this period upon reasonable notice.

2.32 No Third Party Beneficiaries

2.32.1 This Agreement is solely for the benefit of the firm and VA529 and shall not be construed as conferring any rights on any third party.

2.31 Representations, Warranties and Covenants

2.31.1 Each party represents, warrants, and covenants that it has the full legal right, power and authority to execute and deliver this Agreement and to perform its respective obligations hereunder.