

QUESTIONS & ANSWERS ON THE FA-SOR

Go/No-Go Requirements

Insurance

1. With regard to the insurance, is it acceptable to submit a project insurance letter, as opposed to the declaration page so that I can show that I will get insurance and that it's available to me.

No. Please note that the Insurance requirement detailed in Section VII. A is a Go/No-Go factor. The Commission expects for fund administrator candidates to have \$10 million or greater of liability insurance coverage against professional or general liability, fraud, theft, and employee errors and omissions at the time of application. Proof of insurance consisting of a Declaration Page (brief outline of the policy coverage), date of policy, who is insured, and period of coverage for the insurance policy or policies must be submitted.

Data Attestation

2. Exhibit E: Since SAS70 reports are no longer being issued, is a SOC report sufficient?

Yes.

3. Will this requirement transition to NIST800-53 Revision 5 after it is released? Or NIST 800-171 (tailored to governmental contractors) and adopted in the new DFARS clause 252.204.7012?

Yes; or more generally, the required control set will be the most current final, published version of NIST SP800-53 at the time of selection into the fund administrator pool. At the time of selection DFARS clauses are not applicable to this SOR.

4. Data Security - Is the Commission considering adopting the NIST 800-171 standard as a third party as opposed to the NIST 800-53 guidelines?

No. The Fund Administrator pool members have to comply with NIST SP 800-53 controls.

5. Is an existing ATO or authorization sufficient as an independent assessment (since they are issued on the basis of agency assessments and continuous monitoring)?

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If a Fund Administrator has already received an ATO from the SEC, the ATO may remain active through the continuous monitoring approach at the discretion of the SEC. In the event of a significant change to the system or environment, a new full assessment will likely be required.

If a Fund Administrator has received an ATO from another Federal agency, the SEC will evaluate the ATO for compliance with SEC requirements, but additional compliance steps may be required in order to obtain an ATO from the SEC.

6. PII – Do the following data elements when presented on the same record constitute PII:
- a. Name (claimant / party being paid)
 - b. Address
 - c. Amount to payment
 - d. Account number

Yes. The SEC defines PII as information that can be used to distinguish or trace the individual's identity, such as name, social security number, biometric records, etc. alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. [SECR 24-08]. Examples of PII include, but are not limited to, the following: Name, SSN, DOB, Mother's maiden name, Home Address, Personal e-mail address, Driver's license number, Passport number, Biometric information (fingerprints, facial image), Financial data (brokerage or bank account number, credit or debit card number), health information (height, weight, and even allergy information).

Sensitive PII is defined as PII about individuals maintained by the SEC that if released for unauthorized use may result in financial or personal damage to the individual to whom such information relates. Sensitive PII, a subset of PII, may be comprised of a single item or information (e.g., social security number (SSN)) or a combination of two or more items (e.g., full name along with financial, medical, criminal or employment history).

Record Retention

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7. Page 8 of the SOR provides the following: “The fund administrator will maintain, store, and make available in an indexed and readily retrievable form, all records and documentation associated with the case/matter for a period of six years following the transfer of any remaining funds to the SEC; at the end of the six-year period, SEC staff will provide instructions for the disposition of these records.” Is this in electronic or paper form? Or is it a combination of the two?

Yes, one or both formats are acceptable for the six year period as long as the electronic version remains accessible. The concern is use of a proprietary software or electronic format that can no longer be supported. As an example, being a floppy disk or other outgoing format.

8. Document Retention – If the claim form, supporting documents and correspondence are scanned and linked to the investor (indexed), then is there a requirement to retain the source hard copies?

No, but the fund administrator must ensure that the electronic version remains accessible for use if needed. Please refer to the response for Question 7.

Pricing Schedule

In response to questions, certain line items in the Pricing Schedule have been updated to reflect “At Cost.” Items that cannot be priced at this time due to lack of information may be marked as “TBD” and must be explained. This Pricing Schedule is a commitment to prices for standard items in any distribution that you undertake for the SEC. If you become a member of the fund administrator pool and are selected as a candidate to bid on a particular distribution, you will submit a cost proposal based on this Pricing Schedule that includes the prices you have committed to. With respect to those items where you marked “TBD” and did not commit to a specific price, per item fee, or monthly fee, you will need to include a price in your cost proposal on a bid for a particular distribution. For those items you marked as ‘TBD’ you will need to submit specific estimates.

Some of the items on the Pricing Schedule are included based on our experience with prior fund administrators that some fund administrators bill for this type of service. Our Pricing Schedule tries to account for services that we know fund administrators will perform. Some fund

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administrators bill certain services as overhead and some bill them as specific services. If a fund administrator does not account for this service under the categorization listed you may put “N/A” and fill in areas that are applicable. If you think that we have missed some areas that are applicable, please fill them in under “Miscellaneous/ Additional Cost Items” and provide an explanation for each item.

9. In the Pricing Schedule, under Distribution Fund Management, there is a line item for “Account maintenance fee: Track cashed and uncashed checks (per matter) accepted and rejected EFTs; Provide information needed by tax administrator to prepare and file tax returns (per matter per return).” The schedule asks for an annual quote. How do we provide a quote for these services without knowing the size of the case (e.g., number of checks, etc.)?

This line item is for fees charged by the fund administrator related to work performed in connection with maintaining the escrow account after it is opened including tracking checks once they are issued, accepting and rejecting EFT’s, etc. This line item also includes any fees charged by the fund administrator for gathering the information requested by the tax administrator so that the tax administrator can prepare and file tax returns (per matter per return).

10. In the Pricing Schedule, under Distribution Fund Management, there is a line item for “Correspondence Processing”. What is this referring to?

The Pricing Schedule has been revised in response to Questions 9-23 to eliminate this line item.

11. In the Pricing Schedule, under Distribution Fund Management, there is a line item for “Maintenance of Bank Data”. What is this referring to? How does this differ from the line item under Accountings, “Reconcile All Accounts”?

The Pricing Schedule has been revised in response to Questions 9-23 to eliminate this line item.

12. In the Pricing Schedule, under Distributions List: Other Process, there is a line item for “Obtain investor data from appropriate sources; develop economic analysis and methodology for loss calculation and allocation.” The first part of this line item contemplates any work with the transfer agent, DTCC, etc.; but what is the second

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half of the line item referring to and how does should we differentiate it from the Develop Distribution Plan section included previously in the pricing schedule?

The Pricing Schedule has been revised in response to Questions 9-23 to eliminate this line item.

13. In the Pricing Schedule, under Outreach to Intermediaries, there is a line item for “Brokerage Fee Reimbursement”. Without knowing the scope, how should we price this item? At cost?

The Pricing Schedule has been revised in response to Questions 9-23 to eliminate this line item.

14. Page 3 of the SOR provides the following: “If required, the fund administrator shall be prepared to expand services to support new requirements and/or provide any special project support needed to analyze, plan, design, implement, operate and administer distribution services that may be needed to meet the evolving needs of the SEC.” There is no provision for this type of work in the pricing schedule. Will this be added to the pricing schedule on a case-by-case basis?

Yes, items that aren’t covered by the Pricing Schedule but are required by a specific distribution case will be added to the Pricing Schedule.

15. In the Pricing Schedule, under Media, how are we able to price any of these line items without assumptions to base the pricing on? All of the line items seem to recognize that the pricing will vary based on size, frequency, etc. of the ad.

These items can be marked ‘At Cost,’ to be provided at time of specific proposal.

16. In the Pricing Schedule, under Call Center/Telephone Support, what does the “Monthly Toll free Call Center Maintenance Fees” include? Should the “Script Drafting” be priced on an hourly basis or by job?

Some fund administrators charge a monthly fee for maintaining a call center which could include fees for staffing and space allocation. Fees charged by the fund administrator depends on how fund administrators amortize feed incurred in setting up a call center. “Script Drafting” should be priced hourly, “Line System Set Up” should be priced by job, “Monthly Maintenance Fees” should be priced monthly.

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17. In the Pricing Schedule, under Project Management & Report, what does the “Correspondence Processing Staff Hours (Investors)” refer to?

“Correspondence Processing Staff Hours (Investors)” refers to hourly fees charged by the fund administrator for the processing communications with potential harmed investors regarding their claim, etc. or distribution generally.

18. In the Pricing Schedule, under Project Management & Report, what does the “Print Production Management” refer to?

The Pricing Schedule has been revised in response to Questions 9-23 to eliminate this line item.

19. In the Pricing Schedule, under Independent Third-Party Review, how do we price this line item without knowing the scope of the third-party review? Should that just be “at cost”?

Yes.

20. In the Pricing Schedule, under Reporting & Recordkeeping, what does the “archived storage (estimate of data and boxes)” refer to? Is this for the entire six year record retention period?

“Archived storage (estimate of data and boxes)” refers to fees related to use of third party vendors for data and box storage in connection with records retention. Yes, it is for the entire six year period.

21. Are the other line items in this section regarding storage for the period while the case is “active”?

Yes.

22. Certain aspects of the pricing schedule don’t allow for what we would expect to provide accurate estimates. For example, the section on OFAC (rows 172-175) include a per-job, and a per-hour estimate, but transactional volume is a component of pricing OFAC. May we supplement the pricing schedule as necessary in situations such as this to help explain challenges with fitting cost estimates to this schedule as written?”

No. Transaction volume should be a component of the per job price.

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23. For the pricing schedule re: Develop Distribution Plan, if an outside expert is used for part of this work, should the rates for the expert be included? Also, should we note these are expert rates on the schedule?

Yes. Yes.

24. International Payment – As it is becoming more difficult, if not impossible, to cash US Dollar checks internationally, will the Commission consider an electronic payment ONLY policy for international claimants / investors?

At this time, the Commission does not have an electronic payment ONLY policy for international claimants/investors. How international payments are handled will be determined on a case by case basis upon the recommendation of the fund administrator in consultation with the staff. We are aware that there are other alternatives, such as a financial institution making payments in foreign currency.

25. Investor Services – Will the Commission require multi language support for investor communication for phones, IVR and web FAQs? If so, what are the primary languages to consider?

No. The Commission will not require multi language support for investor communication for phones, IVR and web FAQs in every case. Decisions regarding multi language support will be made on a case by case basis.

BUSINESS

26. Thanks are you looking for us to respond to the pricing excel sheet?

Yes, we would like your pricing to be in the format provided on the Pricing Schedule. The SOR package provides explicit instructions concerning submittal requirements.

27. Can you advise on the deadline please.

The due dates are listed on the last page of the SOR.

28. For the hourly rate—should we be using a blended rate, a range, or can we only have one rate per category.

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Only one rate per category should be proposed. The composition of that rate is discretionary.

29. On the pricing schedule, how should we account for price ranges, and for pricing determined on a per-project basis?

Deviations to the Pricing Schedule (Exhibit A) are not allowed. The Pricing Schedule (Exhibit A) has been revised to address any pricing to be provided on a case by case basis.

30. Does the past performance section (VIII.2.b.ii) count against the 10 page limit?

Yes, the past performance section counts towards the technical proposal 10 page limit.

31. Does the Table of Contents count against the 10 page limit?

No, and information within the table of contents will not be evaluated.

32. Can we list our experience in previous SEC distributions in the Technical Proposal – Past Performance section?

Yes.

33. With regard to past performance, may we submit information that is less recent than 2 years if it is more relevant to the project than work done within the past 2 years?

The FA-SOR has been revised to reflect a change from 2 years to 5 years.