

State of Minnesota

Department of Public Safety



Request for Proposal

for

External Review of State's Response to Civil Unrest

Date Posted: September 8, 2020

- Responses must be received not later than 12:00 p.m. (noon) Central Time on Friday, October 2, 2020.
- Late responses will not be considered.

Minnesota's Commitment to Diversity and Inclusion

The State of Minnesota is committed to diversity and inclusion in its public procurement process. The goal is to ensure that those providing goods and services to the State are representative of our Minnesota communities and include businesses owned by minorities, women, veterans, and those with substantial physical disabilities. Creating broader opportunities for historically under-represented groups provides for additional options and greater competition in the marketplace, creates stronger relationships and engagement within our communities, and fosters economic development and equality.

To further this commitment, the Department of Administration operates a program for Minnesota-based small businesses owned by minorities, women, veterans, and those with substantial physical disabilities. For additional information on this program, or to determine eligibility, please call 651-296-2600 or go to the Office of Equity in Procurement home page at www.mn.gov/admin/oep.

SPECIAL NOTICE: This is a Request for Proposal. It does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is in the State's best interest.

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SECTION 1 – INSTRUCTIONS TO RESPONDERS

Steps for Completing Your Response

Follow the steps below to complete your Response to this Solicitation.

Step 1: Read the Request for Proposal solicitation document and ask questions, if any

Step 2: Write your Response

Step 3: Submit your Response (see “Where to Send Your Response” below)

Incomplete Submittals

A response must be submitted along with any required additional documents. Incomplete responses that materially deviate from the required format and content may be rejected.

STEP 1 – READ THE REQUEST FOR PROPOSAL SOLICITATION DOCUMENT AND ASK QUESTIONS, IF ANY

How to Ask Questions

The contact person (“Solicitation Administrator”) for questions is:

Kevin Donnan-Marsh, Contracts Officer

Department of Public Safety

Email Address: kevin.donnan-marsh@state.mn.us

Questions must be emailed to the contact person no later than **12:00 p.m. (noon) Central Time on Tuesday, September 22, 2020**. The State will not respond to questions submitted by fax or telephone calls.

Other personnel, regardless of position, are not authorized to answer questions regarding this solicitation.

All questions will be answered in an addendum to this solicitation. The Q&A addendum will be issued no later than **12:00 p.m. (noon) Central Time on Friday, September 25, 2020**.

STEP 2 – WRITE YOUR RESPONSE

The Proposal Content section is Section 4. Prepare a written response and supply all requested content. Responses should address the requested information and documents detailed in Section 4. **DO NOT INCLUDE Non-Public/Trade Secret data as defined by Minnesota Statutes section 13.37.**

Review, sign, and include all **Solicitation Attachments** with your Response.

STEP 3 – SUBMIT YOUR RESPONSE

Responses must be submitted using the “Express Service” method identified below.

Where to Send Your Response

Express Service

Submit your Response using the express service (i.e. next day delivery or second day delivery) of a national shipping company (e.g. FedEx, UPS, etc.) or the United States Postal Service. **Do not submit your Response using standard United States Postal Service delivery service.**

Responses must be shipped to:

Department of Public Safety

Attn: Kevin Donnan-Marsh, Contracts Officer

445 Minnesota Street, Suite 126

Saint Paul, MN 55101

Telephone Number: 651.201.7006

Proposals must be received not later than **12:00 p.m. (noon) Central Time on Friday, October 2, 2020**. Late responses will not be considered.

Submit one (1) copy of the Response. The Responses should be in envelopes or packages with the Responder's name and address written on the outside. In addition to the Technical Response/Proposal, provide one (1) copy of the Cost Detail/Proposal in a separately sealed envelope clearly marked "Cost Detail" on the outside of the separate envelope.

By submitting a proposal, Responder is making a binding legal offer for the period of time set forth below in Section 6, paragraph 9, Conditions of Offer.

SPECIAL NOTES APPLICABLE TO ALL SUBMISSIONS: 1) fax responses, responses delivered in person, and responses sent using standard United States Postal Service delivery service will not be accepted or considered; 2) all costs incurred in responding to this solicitation will be borne by the Responder; and 3) DO NOT INCLUDE Non-Public/Trade Secret data as defined by Minnesota Statutes section 13.37.

SECTION 2 – SUMMARY OF SCOPE

1. Project Overview and Goals.

The Department of Public Safety (“DPS”) is seeking a qualified Responder to conduct an independent, external review of the State’s response to the civil unrest and rioting following the death of George Floyd in Minneapolis on May 25, 2020. The review will focus primarily on: 1) the use of state resources in response to events that occurred from May 26th to June 7th, primarily in the cities of Minneapolis and Saint Paul; and 2) the efficacy of the State’s response and its collaboration with over 80 local government units.

The goals of the review are to: 1) objectively evaluate what the State did well; 2) identify different actions and options that may have produced different, or better, outcomes; and 3) provide recommendations to the Commissioner of Public Safety to assist the State and local governmental units to respond effectively to potential periods of regional or statewide civil unrest in the future.

2. Sample Tasks and Deliverables.

- Become knowledgeable about the circumstances of the death of George Floyd
- Become knowledgeable about the civil unrest and rioting that occurred from May 26th to June 7th
- Become knowledgeable about the State’s Multi-Agency Command Center
- Establish an engagement process to obtain input from community stakeholders and leaders
- Access public government data to the extent allowable by law, including data in the State’s possession that would otherwise be classified as not public under Minnesota Statutes section 13.82, subdivisions 4, 7, and 25
- Produce and submit a comprehensive report to the Commissioner of Public Safety within 120 days of commencement of review, which shall:
 - Establish a timeline of events and decision-making by the State in collaboration with local government officials
 - Evaluate the response by State
 - Evaluate the response by the State Fire Marshal and local fire entities
 - Evaluate the cross-jurisdictional response coordinated by the State
 - Evaluate the strategic and tactical decisions made by the State
 - Provide recommendations to help state and local agencies further improve the effective response to future complex, safety challenges
- Participate, as requested, in press conferences related to the review
- Testify, as requested, to the State’s legislative bodies and/or its committees

The selected Responder will communicate with leadership from the Department of Public Safety, the Department of Natural Resources, the Minnesota National Guard, the University of Minnesota, and potentially with leadership teams from local governmental units that participated with the MACC.

SECTION 3 – PROPOSAL INSTRUCTIONS AND ADDITIONAL INFORMATION

1. **Anticipated Contract Term.**

The term of this contract is anticipated to be from **November 1, 2020, through May 31, 2021.**

2. **Question and Answer Instructions.**

The question-and-answer period begins at **8:00 a.m. Central Time on Tuesday, September 8, 2020,** and ends at **12:00 p.m. (noon) Central Time on Tuesday, September 22, 2020.**

The designated Department of Public Safety contact person for questions is:

Kevin Donnan-Marsh, Contracts Officer
Department of Public Safety
Email Address: kevin.donnan-marsh@state.mn.us

Other personnel, regardless of position, are not authorized to answer questions or discuss this RFP solicitation with Responders or potential Responders. Contact regarding this solicitation with anyone other than the person identified above may result in disqualification of a Responder.

Questions must be emailed to Kevin Donnan-Marsh no later than **12:00 p.m. (noon) Central Time on Tuesday, September 22, 2020,** and the State is not obligated to answer questions submitted after the question submission deadline.

All questions properly submitted by email to the designated contact person will be answered in an addendum to this solicitation. The Q&A addendum will be issued no later than **12:00 p.m. (noon) Central Time on Friday, September 25, 2020.**

The State is not obligated to answer questions submitted after the question submission deadline; and the State will not respond to questions submitted by fax or telephone calls or submitted to persons other than the authorized individual above.

If a Responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the RFP solicitation, please immediately notify the contact person above via email of such error and request modification or clarification of the document in the Q&A addendum.

3. **Response Submission Instructions.**

All responses to this solicitation must be submitted using the “Express Service” method identified in Section 1, Step 3, above.

All responses should include the following separate documents unless otherwise specified:

- a Technical Response, including Solicitation Attachments A, B, D and E; and
- a Cost Detail/Proposal, Attachment C, which must be submitted separately from the Technical Response.

Late responses will not be considered. Fax responses, responses delivered in person, and responses sent using standard United States Postal Service delivery service will not be accepted or considered. All costs incurred in responding to this solicitation will be borne by the Responder.

DO NOT INCLUDE Non-Public/Trade Secret data as defined by Minnesota Statutes section 13.37.

Conciseness/Completeness of Proposal. It is highly desirable that the Responder submit its Response in a complete, and concise manner. It is the Responder's sole responsibility to submit information as it relates to the evaluation categories. The State of Minnesota is under no obligation to solicit such information if it is not included in the response. The Responder's failure to submit such information may cause an adverse effect on the evaluation of its response. Unnecessary information should be excluded from the response.

4. State of Minnesota Vendor SWIFT Information and Registration.

Prior to doing business with the State of Minnesota, the State requires all suppliers to be registered in Statewide Integrated Financial Tools (SWIFT), the State's automated financial and contract system. If you have not registered in SWIFT and received a unique ten-digit SWIFT supplier number, a successful Responder must register as a supplier by going to <https://mn.gov/mmb/accounting/swift/vendor-resources/>. Please note that approval of your registration by Minnesota Management and Budget may take 3-4 business days. If you need assistance completing the registration process, contact the SWIFT Vendor Assistance Helpline at 651-201-8100, Option 1, or osphelp.line@state.mn.us.

SECTION 4 – PROPOSAL CONTENT

Please submit the following information:

1. **Work Plan**. Responder should provide a work plan that identifies the major tasks to be accomplished and be used as a scheduling and managing tool, as well as the basis for invoicing. This document should NOT list cost detail. If cost detail is included in this document, the State may disqualify the proposal as non-responsive. Responder should provide a statement of the objectives, goals, and tasks to show or demonstrate the Responder's view and understanding of the nature of the contract.
2. **Qualifications and Experience**. Responder should provide a description of its background and experience with examples of similar work done by the Responder; and must include the Responder's: 1) experience in law enforcement, public safety, and emergency response in large, urban areas; 2) experience with an incident command system; 3) experience in systematic, complex investigations or inquiries and communication of the findings; and 4) cultural competence.
3. **References**. Responder should complete and submit "Attachment E: Reference Form" with their response. Responder should submit three (3) completed reference forms, identifying each reference's company name and contact information. Once Responder's response is received, the Solicitation Administrator will send the same form to Responder's references for each reference to complete and return to the Solicitation Administrator.

The State reserves the right to verify the information submitted on Attachment E before an award is made. The State reserves the right to contact the references listed in Attachment E. The solicitation response will be rejected if the State, in its sole discretion, receives information that indicates the Responder is non-responsible or non-responsive.

4. **Cost Detail**. Complete and submit Attachment C: Cost Proposal.

5. **Additional Requested Documentation**.

Submit all requested documentation which include:

1. Attachment A: Responder Declarations
2. Attachment B: Exceptions to State's Terms and Conditions
3. Attachment C: Cost Proposal
4. Attachment D: Responder Forms
 - Veteran-Owned Preference Form (if applicable)
 - Workforce Certificate Information Form (required)
 - Equal Pay Certificate (required)
5. Attachment E: Reference Form (three)

NOTES: 1) DO NOT INCLUDE cost detail and information with the Technical Proposal; and 2) DO NOT INCLUDE Non-Public/Trade Secret data as defined by Minnesota Statutes section 13.37.

SECTION 5 – EVALUATION PROCEDURE AND CRITERIA

The State will conduct an evaluation of responses to this Solicitation. The evaluations will be conducted using a two-tier scoring methodology described below.

1. **TIER 1.**

1.1 Phase 1 - Responsiveness and Pass/Fail Requirements. The purpose of this phase is to determine if each response complies with mandatory requirements. The State will first review each proposal for responsiveness to determine if the Responder satisfies all mandatory requirements. The State will evaluate these requirements on a pass/fail basis.

Mandatory Requirements. The following will be considered on a pass/fail basis:

- Responses must be received by the due date and time specified in this RFP.

1.2 Phase 2 - Evaluate Responses. Only responses found to have met Phase 1 criteria will be considered in Phase 2. In Tier 1-Phase 2, the factors and weighting on which responses will be judged are:

1. Work Plan for Deliverables	300 points
2. Qualifications and Experience	450 points
3. References	150 points
4. Cost Detail	<u>100 points</u> 1000 points
Preference Points (if applicable)	60 points (in addition to 1,000 available)

Preferences points are described under Solicitation Terms and will be applied to the total score after points have been awarded. Each Responders' total score in Tier 1 will consist of the technical score, cost score, and preference points, if applicable.

1.3 Phase 3: Shortlist. Each Responder will be ranked based on each Responder's Tier 1 total score. The State will shortlist the highest scoring Responders by determining the natural break in Responders' scores. Only the highest scoring Responders in Tier 1 will advance to Tier 2.

2. **TIER 2.**

2.1 Phase 1 - Evaluate Responders. All Responders' scores will be re-set to zero prior to beginning Tier 2.

In Tier 2-Phase 1, the factors and weighting on which responses will be judged are:

1. Interviews	350 points
2. Samples of Previous Related Work	250 points
3. Cost Detail	<u>400 points</u> 1000 points
Preference Points (if applicable)	60 points (in addition to 1,000 available)

Preferences points are described under Solicitation Terms and will be applied to the total score after points have been awarded. Each Responders' total score in Tier 2 will consist of the technical score, cost score, and preference points, if applicable.

2.2 Phase 2 - Select Finalist. The State will make its selection based on best value, as determined by this evaluation process. Each Responder will be ranked based on each Responder's Tier 2 total score. The State will begin negotiating with the highest scoring Responder in Tier 2. The State reserves the right to pursue negotiations on any exception taken to the State's standard terms and conditions. In the event that negotiated terms cannot be reached, the State reserves the right to terminate negotiations and begin negotiating with the next highest

scoring Responder. If the State anticipates multiple awards, the State reserves the right to negotiate with more than one Responder.

It is anticipated that the evaluation and selection will be completed by **Friday, October 23, 2020**.

SECTION 6 – SOLICITATION TERMS

1. **Competition in Responding.**

The State desires open and fair competition. Questions from Responders regarding any of the requirements of the Request for Proposal must be submitted via email to the Solicitation Administrator listed in Section I before the due date and time. If changes are made the State will issue an addendum.

Any evidence of collusion among Responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.

2. **Addenda to the Solicitation.**

Changes to the Solicitation will be made by addendum with notification and posted in the same manner as the original Solicitation. Any addenda issued will become part of the Solicitation.

3. **Data Security - Foreign Outsourcing of Work is Prohibited.**

All storage and processing of information shall be performed within the borders of the United States. This provision also applies to work performed by subcontractors at all levels.

4. **Joint Ventures.**

The State allows joint ventures among groups of responders when responding to the solicitation. However, one Responder must submit a response on behalf of all the others in the group. The Responder that submits the response will be considered legally responsible for the response (and the contract, if awarded).

5. **Withdrawing Response.**

A Responder may withdraw its response prior to the due date and time of the Solicitation. For responses submitted in the SWIFT Supplier Portal, a Responder may withdraw its response from the SWIFT Supplier Portal. For responses submitted any other way, a Responder may withdraw its response by notifying the Solicitation Administrator in writing of the desire to withdraw.

After the due date and time of this Solicitation, a Responder may withdraw a response only upon showing that an obvious error exists in the response. The showing and request for withdrawal must be made in writing to the Solicitation Administrator within a reasonable time and prior to the State's detrimental reliance on the response.

6. **Rights Reserved.**

The State reserves the right to:

- Reject any and all responses received;
- Waive or modify any informalities, irregularities, or inconsistencies in the responses received;
- Negotiate with the highest scoring Responder[s];
- Terminate negotiations and select the next response providing the best value for the State;
- Consider documented past performance resulting from a State contract may be considered in the evaluation process;
- Short list the highest scoring Responders;
- Require Responders to conduct presentations, demonstrations, or submit samples;
- Interview key personnel or references;
- Request a best and final offer from one or more Responders; and
- Request additional information.

7. Responses are Nonpublic during Evaluation Process.

All materials submitted in response to this Solicitation will become property of the State. During the evaluation process, all information concerning the responses submitted will remain private or nonpublic and will not be disclosed to anyone whose official duties do not require such knowledge. Responses are private or nonpublic data until the completion of the evaluation process as defined by Minn. Stat. § 13.591. The completion of the evaluation process is defined as the State having completed negotiating a contract with the selected Responder. The State will notify all Responders in writing of the evaluation results.

8. Trade Secret Information.

- 8.1** Responders must not submit as part of their response trade secret material, as defined by Minn. Stat. § 13.37.
- 8.2** In the event trade secret data are submitted, Responder must defend any action seeking release of data it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the State in favor of the party requesting the data, and any and all costs connected with that defense.
- 8.3** The State does not consider cost or prices to be trade secret material, as defined by Minn. Stat. § 13.37.
- 8.4** A Responder may present and discuss trade secret information during an interview or demonstration with the State, if applicable.

9. Conditions of Offer.

Unless otherwise approved in writing by the State, Responder's cost proposal and all terms offered in its response that pertain to the completion of professional and technical services and general services will remain firm for 180 days, until they are accepted or rejected by the State, or they are changed by further negotiations with the State prior to contract execution.

10. Award.

Any award that may result from this solicitation will be based upon the total accumulated points as established in the solicitation. The State reserves the right to award this solicitation to a single Responder, or to multiple Responders, whichever is in the best interest of the State, providing each Responder is in compliance with all terms and conditions of the solicitation. The State reserves the right to accept all or part of an offer, to reject all offers, to cancel the solicitation, or to re-issue the solicitation, whichever is in the best interest of the State.

11. Requirements Prior to Contract Execution.

Prior to contract execution, a Responder receiving a contract award must comply with any submittal requests. A submittal request may include, but is not limited to, a Certificate of Insurance.

12. Targeted Group, Economically Disadvantaged Business, Veteran-Owned and Individual Preference.

Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, businesses that are eligible and certified by the State as targeted group (TG) businesses, economically disadvantaged (ED) businesses, and veteran-owned businesses will receive points equal to 6% percent of the total points available as preference. For TG/ED/VO certification and eligibility information visit [the Office of Equity in Procurement website at https://mn.gov/admin/business/vendor-info/oep/](https://mn.gov/admin/business/vendor-info/oep/) or call the Division's Helpline at 651.296.2600.

13. Reciprocity.

State shall comply with Minn. Stat. § 16C.06, subd. 7, as that applies to a non-resident vendor. This paragraph does not apply for any project in which federal funds are expended.

ATTACHMENT A: RESPONDER DECLARATIONS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. Response Contents.** The information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the Responder to suspension or debarment proceedings as well as other remedies available by law.
- B. Authorized Signature.** This Declaration is signed by the appropriate person(s), with the authority to contractually bind the Responder, as required by applicable articles, bylaws, resolutions, minutes, and ordinances.
- C. Non-Collusion Certification.**
1. The Response has been arrived at by the Responder independently and has been submitted without collusion and without any agreement, understanding or planned common course of action with any other vendor designed to limit fair or open competition; and
 2. The contents of the Response have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any other individual prior to the due date and time of this Solicitation. Any evidence of collusion among Responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.
- D. Organizational Conflicts of Interest.** To the best of Responder's knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons,
1. a vendor is unable or potentially unable to render impartial assistance or advice to the State;
 2. the vendor's objectivity in performing the contract work is or might be otherwise impaired; or
 3. the vendor has an unfair competitive advantage.
- If after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the State's Chief Procurement Officer which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to OSP, the State may terminate the contract for default. Organizational conflicts of interest terms apply to any subcontractors for this work.
- E. Certification Regarding Lobbying.** For State of Minnesota Contracts and Grants over \$100,000, the Responder certifies, to the best of his or her knowledge and belief that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

F. **Copyrighted Material Waiver.** By signing its Response, the Responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response.

G. **Diverse Spend Reporting.** The Sample Contract contains a clause for Diverse Spend Reporting. When this clause applies, Contractor will be required to register in a free portal to report diverse spend. Please see [Diverse Spend Reporting Frequently Asked Questions](#) for additional information.

By signing this form, Responder acknowledges and certifies compliance with all applicable requirements indicated above.

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone Number: _____

Email Address: _____

ATTACHMENT B: EXCEPTIONS TO STATE’S TERMS AND CONDITIONS

The State presumes a Responder agrees to the terms and conditions of this solicitation unless the Responder takes specific exception to one or more of the conditions on this form.

The State reserves the right to reject, negotiate, or accept any exception listed to the State’s terms and conditions (including those found in the attached Sample Contract).

INSTRUCTIONS: Responders must explicitly list all exceptions to State terms and conditions (including those found in the attached sample contract, if any). Reference the actual number of the State's term and condition and page number for which an exception(s) is being taken. If no exceptions exist, state "NONE" specifically on the form below. Whether or not exceptions are taken, the Responder must sign and date this form and submit it as part of their response. *(Add additional pages if necessary.)*

Clause and Page Number	Suggested Change to Clause	Explanation or Justification

By signing this form, I acknowledge that the above-named Responder accepts, without qualification, all terms and conditions stated in this solicitation (including the sample contract) except those clearly outlined as exceptions above.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT C: COST DETAIL

Responders must use this attachment form to submit their Cost Proposal. The rate(s) identified in the Cost Proposal must reflect all costs, including but not limited to compensation, fees, applicable commissioners, equipment and other anticipated or projected costs.

Responders must submit one or more hourly rates for the services of personnel identified to provide services. The hourly rates must be sufficient to cover all travel and subsistence expenses. The contract will not include a separate provision for reimbursement of travel and subsistence expenses incurred during the contract term.

Identify the level of the State's participation in the contract and details of cost allowances for this participation. The State does not make regular payments based solely upon the passage of time; it only pays for services performed or work delivered after it is accomplished.

Do not include any cost information in the technical response (see Section 4, Proposal Content).

The cost detail must be open for acceptance until a contract is executed, the Solicitation is cancelled, or 180 days after the submission deadline for the Solicitation, whichever comes first.

Submit the cost detail as a separate document from the technical response for all copies of the Response. Cost details will not be reviewed and scored by the evaluation team prior to the technical scores being finalized.

**ATTACHMENT D: RESPONDER FORMS
STATE OF MINNESOTA
VETERAN-OWNED PREFERENCE FORM**

Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. §16C.16, subd. 6a, the state will award a 6% preference on state procurement to certified small businesses that are majority owned and operated by veterans.

Veteran-Owned Preference Requirements - See Minn. Stat. § 16C.19(d):

- 1) The business has been certified by the Office of Equity in Procurement as being a veteran-owned or service-disabled veteran-owned small business.

or

- 2) The principal place of business is in Minnesota AND the United States Department of Veterans Affairs verifies the business as being a veteran-owned or service-disabled veteran-owned small business under Public Law 109-461 and Code of Federal Regulations, title 38, part 74 (Supported By Documentation).

Statutory requirements and appropriate documentation must be met **by the solicitation response due date and time** to be awarded the veteran-owned preference.

Claim the Preference

By signing below, I confirm that:

My company is claiming the veteran-owned preference afforded by Minn. Stat. § 16C.16, subd. 6a. By making this claim, I verify that:

- The business has been certified by the Office of Equity in Procurement as being a veteran-owned or service-disabled veteran-owned small business.

or

- My company's principal place of business is in Minnesota **and** the United States Department of Veteran's Affairs verifies my company as being a veteran-owned or service-disabled veteran-owned small business (Supported By Attached Documentation)

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone: _____

Printed Name: _____ Title: _____

Attach documentation, sign, and return this form with your solicitation response to claim the veteran-owned preference.

ATTACHMENT D: RESPONDER FORMS
STATE OF MINNESOTA
WORKFORCE CERTIFICATE INFORMATION FORM

Required by state law for ALL bids or proposals that could exceed \$100,000

Complete this form and return it with your bid or proposal. The State of Minnesota is under no obligation to delay proceeding with a contract until a company becomes compliant with the Workforce Certification requirements in Minn. Stat. §363A.36.

BOX A – COMPANIES that have employed more than 40 full-time employees WITHIN MINNESOTA on any single working day during the previous 12 months, check one option below:	
<input type="checkbox"/>	Attached is our current Workforce Certificate issued by the Minnesota Department of Human Rights (MDHR).
<input type="checkbox"/>	Attached is confirmation that MDHR received our application for a Minnesota Workforce Certificate on _____(date).
BOX B – NON-MINNESOTA COMPANIES that have employed more than 40 full-time employees on a single working day during the previous 12 months in the state where it has its primary place of business, check one option below:	
<input type="checkbox"/>	Attached is our current Workforce Certificate issued by MDHR.
<input type="checkbox"/>	We certify we are in compliance with federal affirmative action requirements.
BOX C – EXEMPT COMPANIES that have not employed more than 40 full-time employees on a single working day in any state during the previous 12 months, check option below if applicable:	
<input type="checkbox"/>	We attest we are exempt. If our company is awarded a contract, upon request, we will submit to MDHR within 5 business days after the contract is fully signed, the names of our employees during the previous 12 months, the date of separation, if applicable, and the state in which the persons were employed. Send to compliance.MDHR@state.mn.us .
By signing this statement, I certify that the information provided is accurate and that I am authorized to sign on behalf of the company.	
Name of Company: _____	Date _____
Authorized Signature: _____	Telephone number: _____
Printed Name: _____	Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services

Web: <http://mn.gov/mdhr/> TC Metro: 651-539-1095 Toll-Free: 800-657-3704
Email: compliance.MDHR@state.mn.us. TTY: 651-296-1283

**ATTACHMENT D: RESPONDER FORMS
STATE OF MINNESOTA
EQUAL PAY CERTIFICATE**

If your response could be in excess of \$500,000, please complete and submit this form with your submission. **It is your sole responsibility to provide the information requested and when necessary to obtain an Equal Pay Certificate (Equal Pay Certificate) from the Minnesota Department of Human Rights (MDHR) prior to contract execution. You must supply this document with your submission.** Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or at compliance.MDHR@state.mn.us.

Option A – If you have employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the applicable box below:

- Attached is our current MDHR Equal Pay Certificate.
- Attached is MDHR’s confirmation of our Equal Pay Certificate application.

Option B – If you have not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where you have your primary place of business, please check the box below.

- We are exempt. We agree that if we are selected we will submit to MDHR within five (5) business days of final contract execution, the names of our employees during the previous 12 months, date of separation if applicable, and the state in which the persons were employed. Documentation should be sent to compliance.MDHR@state.mn.us.

The State of Minnesota reserves the right to request additional information from you. **If you are unable to check any of the preceding boxes, please contact MDHR to avoid a determination that a contract with your organization cannot be executed.**

Your signature certifies that you are authorized to make the representations, the information provided is accurate, the State of Minnesota can rely upon the information provided, and the State of Minnesota may take action to suspend or revoke any agreement with you for any false information provided.

Authorized Signature	Printed Name	Title
Organization	MN/FED Tax ID#	Date
Issuing Entity	Project # or Lease Address	



State of Minnesota Contract

[Sample Contract]

SWIFT Contract No.:

This Contract is between the **State of Minnesota**, acting through its Commissioner of Public Safety (“State”), and **[Contractor]** whose designated business address is **[Contractor’s business address]** (“Contractor”). The State and Contractor may be referred to jointly as “Parties.”

Recitals

1. State issued a solicitation identified as **[Solicitation identification]** **[SWIFT Event No.]** on **[Solicitation date]** for **[brief narrative describing purpose of solicitation]** (“Solicitation”);
2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and
3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract

- 1.1 **Effective Date.** **[insert effective date]**, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2 whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State’s Authorized Representative to begin the work.
- 1.2 **Expiration Date.** **[insert expiration date]**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2. Contractor’s Duties

The Contractor represents that it is duly qualified and agrees to perform all duties described in this Contract to the satisfaction of the State.

The Contractor, who is not a State employee, will perform the duties identified in Exhibit C: Specifications, Duties, and Scope of Work.

3. Representations and Warranties

- 3.1 Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law, the State is empowered to engage such assistance as deemed necessary.
- 3.2 Contractor warrants that it is duly qualified and shall perform its obligations under this Contract in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor’s industry, trade, or profession, and in accordance with the specifications set forth in this Contract, to the satisfaction of the State.
- 3.3 Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully

authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms.

4. Time

The Contractor must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

5. Consideration and Payment

5.1 Consideration. The State will pay for performance by the Contractor under this Contract as follows:

5.1.1 Compensation. The Contractor will be paid *[Explain how the Contractor will be paid]*.

Examples: "Following acceptance of the deliverables described below. "Note: caution must be exercised if payment by the hour is utilized. If deliverables can be succinctly defined, it is generally preferable to structure payment based on the successful completion and acceptance of specific tasks or deliverables.

5.1.2 Total Obligation. The total obligation of the State for all compensation and reimbursements to the Contractor under this Contract will not exceed \$ *[##]*.

5.2 Payment.

5.2.1 Invoices. The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the goods received and services actually performed, and the State's Authorized Representative accepts the invoiced goods or services. Invoices must be submitted timely and according to the following schedule:

[Example: "upon completion of the services," or if there are specific deliverables, list how much will be paid for each deliverable. The State does not pay merely for the passage of time.]

5.2.2 Retainage. Under Minn. Stat. § 16C.08, subd. 2(10), no more than 90 percent of the amount due under this Contract may be paid until the final product of this Contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this Contract.

5.2.3 Conditions of Payment. All services provided by the Contractor under this Contract must be performed to the State's satisfaction and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6. Authorized Representatives

The State's Authorized Representative is the person below, or his/her successor, and has the responsibility to monitor the Contractor's performance.

Name: *[insert State's Authorized Rep information here]*

Address: Department of Public Safety
445 Minnesota Street, Suite 145
Saint Paul, MN 55101-5145

Telephone:

Email Address:

The Contractor's Authorized Representative is the person below, or his/her successor. If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the State in writing/email.

Name: *[insert Contractor's Authorized Rep information here]*

Address:

Telephone:
Email Address:

7. Exhibits

The following Exhibits are attached and incorporated into this Contract:

- Exhibit A: Contract Terms
- Exhibit B: Insurance Requirements
- Exhibit C: Specifications, Duties, and Scope of Work

1. State Encumbrance Verification
Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05

Print name: _____

Signature: _____

Title: _____ Date: _____

SWIFT PO No.: _____

3. State Agency: Department of Public Safety
With delegated authority

Print name: _____

Signature: _____

Title: _____ Date: _____

2. Contractor
The Contractor certifies that the appropriate person has executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print name: _____

Signature: _____

Title: _____ Date: _____

4. Commissioner of Administration
As delegated to the Office of State Procurement

Print name: _____

Signature: _____

Title: _____ Date: _____

Exhibit A: Contract Terms

1. Prompt Payment and Invoicing.

- 1.1 Prompt Payment.** The State will pay pursuant to Minn. Stat. § 16A.124, which requires payment within 30 days following receipt of an undisputed invoice, or merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read “Net 30 days.” Notwithstanding the foregoing, the State may pay the Contractor in advance for purchases as allowed pursuant to Minn. Stat. § 16A.065.

The payment for each order will only be made for goods received or services actually performed that have been accepted by the ordering entity, and meet all terms, conditions, and specifications of the Contract and the ordering document.

- 1.2 Invoicing.** Each invoice should at a minimum include:
- Customer name
 - State SWIFT contract number
 - State SWIFT purchase order number
 - Service description
 - Explanation of work performed per charge indicated on the invoice

2. Assignment, Amendments, Waiver, and Contract Complete.

- 2.1 Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.
- 2.2 Amendments.** Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.
- 2.3 Waiver.** If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.
- 2.4 Contract Complete.** This Contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

3. Termination.

- 3.1 Termination for Convenience.** The State or Commissioner of Administration may cancel this Contract at any time, with or without cause, upon 30 days’ written notice to the Contractor. Upon termination for convenience, the Contractor will be entitled to payment, determined on a pro rata basis, for services or goods satisfactorily performed or delivered.
- 3.2 Termination for Breach.** The State may terminate this Contract, with cause, upon 30 days written notice to the Contractor of the alleged breach and opportunity to cure. If after 30 days, the alleged breach has not been remedied, the State may immediately terminate the Contract.
- 3.3 Termination for Insufficient Funding.** The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Contract. Termination must be by written notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that dedicated funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must

provide the Contractor notice of the lack of funding. This notice will be provided within a reasonable time of the State's receiving notice.

4. Force Majeure.

Neither party shall be responsible to the other or considered in default of its obligations within this Contract to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision must provide the other party prompt written notice of the inability to perform and take all necessary steps to bring about performance as soon as practicable.

5. Indemnification.

5.1 In the performance of this Contract, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:

- Intentional, willful, or negligent acts or omissions; or
- Actions that give rise to strict liability; or
- Breach of contract or warranty.

The Indemnifying Party is defined to include the Contractor, Contractor's reseller, any third party that has a business relationship with the Contractor, or Contractor's agents or employees, and to the fullest extent permitted by law. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for the State's failure to fulfill its obligation under this Contract.

5.2 Nothing within this Contract, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This shall extend to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.

6. Governing Law, Jurisdiction, and Venue.

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

7. Foreign Outsourcing of Work Prohibited.

All services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision also applies to work performed by all subcontractors.

8. Subcontracting and Subcontract Payment.

8.1 Subcontracting Allowed. A subcontractor is a person or company that has been awarded a portion of the Contract by Contractor. Only subcontractors that have been approved by the Contract Administrator can be used for this Contract.

After the effective date of the Contract, the Contractor shall not, without prior written approval of the Contract Administrator, subcontract for the performance of any of the Contractor's obligations that were not already approved for subcontracting when the Contract was awarded. During this Contract, if an approved subcontractor is determined to be performing unsatisfactorily by the Contract Administrator, the Contractor will receive written notification that the subcontractor can no longer be used for this Contract.

The provisions of the Contract shall apply with equal force and effect to all approved subcontractors engaged by the Contractor. Notwithstanding approval by the State, no subcontract shall serve to terminate or in any way affect the primary legal responsibility of the Contractor for timely and satisfactory performances of the obligations contemplated by the Contract.

8.2 Subcontractor Payment. Contractor must pay any subcontractor in accordance with Minn. Stat. § 16A.1245.

9. Data Disclosure.

Under Minn. Stat. § 270C.65, subd. 3, and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

10. Government Data Practices.

The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

11. Intellectual Property Rights.

11.1 Definitions. For the purpose of this Section, the following words and phrases have the assigned definitions:

11.1.1 "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this Contract.

11.1.2 "Pre-Existing Intellectual Property" means intellectual property developed prior to or outside the scope of this Contract, and any derivatives of that intellectual property.

11.1.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this Contract. "Works" includes Documents.

11.2 Ownership. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this Contract. The Documents shall be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

11.3 Pre-existing Intellectual Property. Each Party shall retain ownership of its respective Pre-Existing Intellectual Property. The Contractor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for

Contractor's Pre-Existing Intellectual Property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Contract.

11.4 Obligations.

11.4.1 Notification. Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this Contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the State's Authorized Representative with complete information and/or disclosure thereon.

11.4.2 Representation. The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities.

11.4.3 Indemnification. Notwithstanding any other indemnification obligations addressed within this Contract, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

12. Copyright.

The Contractor shall save and hold harmless the State of Minnesota, its officers, agents, servants and employees, from liability of any kind or nature, arising from the use of any copyrighted or noncopyrighted compositions, secret process, patented or nonpatented invention, article or appliance furnished or used in the performance of the Contract.

13. State Audits.

Under Minn. Stat. § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Contract.

14. Diverse Spend Reporting.

If the total value of the Contract may exceed \$500,000, including all extension options, Contractor must track and report, on a quarterly basis, the amount paid to diverse businesses both: 1) directly to subcontractors performing under the Contract; and 2) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Contract compared to Contractor's overall revenue). When this applies, Contractor will register in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Contract is in effect.

15. Publicity and Endorsement.

15.1 Publicity. Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press

releases, information posted on corporate or other websites, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

15.2 Endorsement. The Contractor must not claim that the State endorses its products or services.

16. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions.

Contractor certifies that neither it nor its principals is presently debarred or suspended by the Federal government, the State, or any of the State's departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor shall provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

17. Contingency Fees Prohibited.

Pursuant to Minn. Stat. § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

18. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

19. Non-discrimination (in accordance with Minn. Stat. § 181.59).

The Contractor will comply with the provisions of Minn. Stat. § 181.59.

20. E-Verify Certification (in accordance with Minn. Stat. § 16C.075).

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

21. Affirmative Action Requirements.

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

21.1 Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

21.2 General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for

compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.

21.3 Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

21.3.1 The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

21.3.2 The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

21.3.3 In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

21.3.4 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

21.3.5 The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

21.4 Consequences. The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State.

21.5 Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

22. Equal Pay Certification.

If Contractor is required by Minn. Stat. § 363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor is exempt, the State may require Contractor to verify its exempt status.

23. Survival of Terms.

The following clauses survive the expiration or cancellation of this Contract: Indemnification; State Audits; Government Data Practices; Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that expressly states or by its nature shall survive, shall survive.

Exhibit B: Insurance Requirements

1. **Notice to Contractor.**

- 1.1 The Contractor is required, upon written request from the State, to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements prior to commencing work under the Contract.
- 1.2 Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the Contract.
- 1.3 The failure of the State to obtain a Certificate of Insurance, for the policies required under this Contract or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the Owner to the Contractor to provide such insurance.
- 1.4 The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's Authorized Representative upon written request.

2. **Notice to Insurer.**

- 2.1 The Contractor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.
- 2.2 Insurance certificate holder should be addressed as follows:
 - State of Minnesota
 - Department of Public Safety
 - Attn: Kevin Donnan-Marsh, Contracts Officer
 - 445 Minnesota Street
 - St. Paul, MN 55101
 - Email Address: Kevin.Donnan-Marsh@state.mn.us

3. **Additional Insurance Conditions. The following apply to the Contractor, or the Contractor's subcontractor(s):**

- 3.1 Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Contractor's performance under this contract;
- 3.2 If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State;
- 3.3 Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 3.4 If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- 3.5 Contractor's policy(ies) shall include legal defense fees in addition to its professional liability policy limits;
- 3.6 Contractor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota; or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best; and
- 3.7 An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

4. **Coverages.** Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

4.1 **General Insurance Requirements**

4.1.1 **Workers' Compensation Insurance.** Statutory Compensation Coverage. Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

- \$100,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$100,000 – Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State with a certificate of insurance.

4.1.2 **Commercial General Liability Insurance.**

Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** limits are as follows:

- \$2,000,000 – per occurrence
- \$2,000,000 – annual aggregate
- \$2,000,000 – annual aggregate – applying to Products/Completed Operations

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- State of Minnesota named as an Additional Insured, to the extent permitted by law

4.1.3 **Commercial Automobile Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

- Owned, Hired, and Non-owned Automobile.

Evidence of Subcontractor insurance shall be filed with the Contractor.

4.1.4 Professional Liability, Errors, and Omissions. This policy will provide coverage for all claims the Contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor’s professional services required under the contract. Insurance **minimum** limits are as follows:

\$2,000,000 - per claim or event

\$2,000,000 - annual aggregate

Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the State. If the Contractor desires authority from the State to have a deductible in a higher amount, the Contractor shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the State can ascertain the ability of the Contractor to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Contractor to fulfill this requirement.

**Exhibit C: Specifications, Duties, and Scope of Work
(corresponding to Contract Clause 2, Contractor's Duties)**