

State of Minnesota

Department of Administration



Request for Proposals

Disparity Study

Contents

REQUEST FOR PROPOSALS	3
Project Overview	3
Goals	3
Questions?	4
Technical Proposal Content	4
Cost Proposal Content	6
Proposal Evaluation	6
Mandatory Requirements (Scored as Pass/Fail)	6
Evaluation Factors	6
Proposal Instructions	7
SWIFT Registration	7
Response Due Date (End Date)	7
Proposal Submission Requirements	7
Responding in SWIFT (Guidelines)	7
Schedule of Events	8
Exhibit A - Scope of Work	8
Sample Tasks	8
Overview of Participating Governmental Units	9
Contract Classification	9
Market Area Identification by Category	10
Availability and Utilization of Firms by Category	10
Evidence of Discrimination	11
Race and Gender Neutral Techniques	12
Recommendations for Program Revisions or Development	12
Work Products	12
Contractor Presentations	13
Contractor Availability for Litigation	13
Computer-Based Data	13
Attachment A1: State of Minnesota	14
Attachment A2: Metropolitan Council	17
Attachment A3: The Metropolitan Airports Commission	18
Attachment A4: The Mosquito Control District	19
Attachment A5: Minnesota Sports Facilities Authority	20
Attachment A6: Minnesota State Colleges and Universities	21
Attachment A7: The City of Saint Paul	22
Attachment A8: The City of Minneapolis	24
Attachment A9: Hennepin County	27
Exhibit B – Technical Worksheet	28
Exhibit C – Cost Worksheet	29
Exhibit D – General Requirements, Forms, and Sample Contract	30
General Requirements	30
Attachment D1 - State of Minnesota Certification Regarding Lobbying	36
Attachment D2 - State of Minnesota Affirmative Action Certification	37
Attachment D3 - State of Minnesota Equal Pay Certificate	38
Attachment D4 - State of Minnesota Affidavit of Non-collusion	39
Attachment D5 – State of Minnesota Resident Vendor Form	40
Attachment D6 – Sample State of Minnesota Professional and Technical Services Master Contract & Sample Work Order	41

REQUEST FOR PROPOSALS

Minnesota Department of Administration

Project Overview

The Minnesota Department of Administration is seeking proposals from qualified businesses or organizations (Contractor) to perform a disparity study for various State agencies and Local Governmental Units (LGUs), including, but not limited to (altogether “Governmental Units”):

1. The State of Minnesota;
2. The Metropolitan Council;
3. The Metropolitan Airports Commission;
4. The Mosquito Control District;
5. Minnesota Sports Facilities Authority;
6. Minnesota State Colleges and Universities;
7. The City of Saint Paul;
8. The City of Minneapolis; and
9. Hennepin County.

The Minnesota Department of Administration reserves the right to add additional Minnesota Local Governmental Units (LGUs), school districts, and Minnesota educational institutions to the aforementioned list, at any time, including during the contracting process.

The collaboration among the Governmental Units is designed to (1) reduce study costs to individual participants by sharing the costs for the marketplace availability and other common study elements and (2) enhance the validity and credibility of the resulting data by adopting a uniform study methodology.

Responders to this RFP may submit a response to provide services (1) for all Governmental Units, as set forth in Exhibit A (Scope of Work); (2) for The State of Minnesota, The Metropolitan Council, The Metropolitan Airports Commission, The Mosquito Control District (including marketplace/availability analysis and other common study elements); or (3) for one or more Governmental Units (*excluding marketplace availability and other common study elements*).

The Governmental Units reserve the right to award a Master Contract to one or more responders. Each Governmental Unit, or a combination of Governmental Units, will enter into a separate Work Order identifying the scope of work to be completed. It is anticipated that the Market Analysis will be contracted for by the Department of Administration.

Please note, this request for proposal does not obligate the state to award a contract or complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest. **All costs incurred in responding to this RFP will be borne by the responder.**

The contract will begin upon full execution of the contract and will be completed by June 30, 2016.

Goals

The purpose of this Request for Proposal (RFP) is to determine whether the participating Governmental Entities each have sufficient data and legal justification to implement a race-based or gender-based preference program as it relates to each entity's procurement of goods, services, construction, and professional and technical services.

For the State of Minnesota, the scope of this project includes purchasing and contracting conducted under the Commissioner of Administration's authority in Minnesota Statutes Chapter 16C, and contracting for which the Commissioner of Administration has oversight authority in Chapter 16C. The scope also includes state-funded highway construction contracts under the authority of the Department of Transportation, pursuant to Minnesota Statutes Chapter 161, and the state-funded programs (described in Minnesota Statutes § 473.142) of the Metropolitan Agencies listed in Minnesota Statutes § 473.143, subdivision 1.

For the Local Governmental Units (LGUs), the scope of this project may vary, but will likely include the procurement of goods, services, construction, and professional and technical services across each LGU and its divisions.

Questions?

Prospective responders who have any questions regarding this request for proposal may email the contact below:

Ms. Rachel Dougherty, Contracts Specialist
Minnesota Department of Administration
PT.Questions@state.mn.us

Questions received after 2:00pm (Central) on October 9, 2015 may not be answered.

Other personnel are **NOT** authorized to discuss this request for proposal with responders, before the proposal submission deadline. Contact regarding this RFP with any personnel not listed above could result in disqualification.

If you identify any errors or inconsistencies in the RFP documents, you must notify the Department of Administration, at the email address above, no later than October 9, 2015.

Technical Proposal Content

A. The following content **MUST** be included in your Technical Proposal:

1. All requirements described in the Scope of Work or elsewhere in this document.
2. Technical Proposal Worksheet (Exhibit B)
3. A statement of the objectives, goals, and tasks to show or demonstrate the Responder's view and understanding of the nature of the contract.

4. A description of the deliverables to be provided by the Responder along with a detailed work plan that identifies the project management approach and associated tools, and major tasks to be accomplished, to be used as a scheduling and managing tool, as well as the basis for invoicing.
 5. A description of the information the Responder will need to collect and the categories of services that will be examined (i.e. services, goods, construction, etc.), including a breakdown of each category, if applicable.
 6. A detailed project schedule for each Governmental Unit's Study must be included as an element of each proposal, including an estimate of the time required to complete each task described and the target date for completion of the project.
 7. An outline of the Responder's background and experience with examples of similar work done by the responder and a list of personnel who will conduct the project, detailing their training, work experience, and hourly fees. No change in personnel assigned to the project will be permitted without the written approval of the appropriate project coordinator.
 8. A work sample that properly reflects the quality of your work from a disparity study performed for another governmental entity.
 9. The Department of Administration has set a ten percent (10%) subcontracting goal for this contract. Prime contractors are required to subcontract at least ten percent (10%) of their contract to certified Targeted Group businesses or individuals. A complete listing of certified Targeted Group businesses is available on the Materials Management Division Website at www.mmd.admin.state.mn.us/process/search/. This provision does not apply to prime contractors which are certified Targeted Group businesses.
 - a. In order for the proposal to be considered, a list of the Targeted Group businesses or individuals to be utilized and the percentage of utilization on this contract must be submitted with the proposal. The total percent to be subcontracted must be equal to or in excess of the stated goal.
 - b. Prime contractors may request a waiver from this subcontracting goal by submitting documented unsuccessful efforts to obtain certified subcontractors to the Materials Management Division, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155.
 10. Responders are encouraged to propose additional tasks or activities if they will substantially improve the results of the project. Additional tasks and activities that are proposed, but not included in the scored Cost Proposal, must be identified as "Optional Services" within the Technical and Cost Proposals.
- B. Additionally, the following is a list of documents that must accompany your proposal (see Exhibit C), where applicable:
1. Affidavit of Non Collusion
 2. Certificate Regarding Lobbying (if proposal exceeds \$100,000, including extension options)

3. Affirmative Action Certification (if proposal exceeds \$100,000, including extension options)
4. Equal Pay Certificate Form (if proposal exceeds \$500,000, including extension options)
5. Resident Vendor Form (if applicable)

Cost Proposal Content

A. The following content **MUST** be included in your Cost Proposal:

1. Cost detail. (See instructions below for submission of pricing information.) Use the format outlined in Exhibit C (or similar format) to provide cost detail.
2. Identify the level of work that will need to be completed by the Governmental Unit under the contract.

B. Cost information must be loaded into the system as a separate document(s) from your technical response. Cost proposals will not be reviewed by the evaluation team prior to the qualification scores being finalized.

Proposal Evaluation

All responses received by the End Date and time will be reviewed by the State. Proposals will first be reviewed for responsiveness to determine if the minimum requirements have been met. Proposals that fail to meet minimum requirements will not advance to the next phase of the evaluation. The State reserves the right, based on the scores of the proposals, to create a short-listing of vendors who have received the highest scores to interview or conduct presentations. The state reserves the right to seek best and final offers from one or more responders. Proposals will be evaluated on “best value” as specified below.

Mandatory Requirements (Scored as Pass/Fail)

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

1. Proposals (Technical and Cost Proposals) must be received on or before the End Date as set forth in the SWIFT Event details applicable to this RFP.

Evaluation Factors

The following Evaluation Factors will be used to evaluate and score the Responders’ Technical Proposals:

- | | |
|--|-----|
| 1. Expressed understanding of project objectives | 10% |
| 2. Deliverables, work plan, and project management approach | 20% |
| 3. Qualifications/experience of personnel working on the project | 40% |
| 4. Cost detail | 30% |

It is anticipated that the evaluation and selection will be completed within 30 days following the End Date.

Proposal Instructions

SWIFT Registration

All responses to this RFP (termed an “Event” within SWIFT) must be submitted through SWIFT using the Supplier portal (<http://supplier.swift.state.mn.us/>). Training and documentation on how to submit your response is available through the Supplier portal link above.

NOTE: If you are reviewing this RFP in the SWIFT system or downloaded the RFP from the SWIFT system, you are likely already a registered vendor with the State.

If you are reviewing this RFP in paper form, you may need to register as a vendor by going to <http://www.mmb.state.mn.us/vendorresources>. **For new vendors, please note that approval of your registration may take 3 – 4 business days.** If you need assistance obtaining a vendor ID or completing the registration process, please call 651-201-8100, Option 1. Additional resource are available at <http://www.mmb.state.mn.us/vendorresources>.

Response Due Date (End Date)

All responses to this RFP must be submitted and received in SWIFT no later than the Event End Date and time as set forth in the SWIFT Event Details applicable to this RFP. Fax, e-mail, and printed proposals will not be accepted or considered.

All proposals will be automatically time and date stamped internal to the SWIFT system when they are received. Proposals received after End Date above will not be considered. The State shall not be responsible for any errors or delays caused by technology-related issues, even if they are caused by the State.

Late proposals will not be considered.

Proposal Submission Requirements

All responses should include the following separately attached documents, unless otherwise specified:

1. a Technical Proposal;
2. a Cost Proposal;
3. a separate document containing all Non-Public/Trade Secret data (as defined by Minn. Stat. §13.37). NOTE: all non-public/trade secret data must be posted to the “Add Non Public/Trade Secret Data” link on the Event Information page in SWIFT. The State is unable to ensure the protection of non-public/trade secret data contained in any other attachment.

Responding in SWIFT (Guidelines)

Interested Responders may begin preparing and entering their response into SWIFT as soon as they have downloaded the RFP. Electronic submissions to the state will be accepted beginning on the SWIFT

Start Date for this RFP. Cost information must be loaded into the system as a separate document(s) from your technical response.

Schedule of Events

This section provides a tentative schedule of the critical project dates. Responders should carefully examine and make certain they have a clear understanding of the requirements of the specified project milestones and the associated dates.

RFP Posted	September 21, 2015
Questions Due	October 9, 2015 (2:00 pm)
Answers Published	October 16, 2015
SWIFT End Date	

Exhibit A - Scope of Work

Sample Tasks

1. The Governmental Units anticipate that the selected Contractor(s) will:
 - Provide a marketplace/availability (unless selected Contractor chooses only Option 3 as outlined in Exhibit B);
 - Examine and analyze the purchasing and contracting activities in the market areas of the participating Governmental Units to determine whether there is disparity between minority-owned and woman-owned vendor availability and utilization.
 - An assessment of contracting results compared with availability;
 - Gather evidence of past discrimination and determine the extent to which identified disparities are the result of that discrimination.
 - Gather anecdotal evidence, if required for a valid, legally-defensible study;
 - Provide a Review the 2009 Disparity Study and compare the findings with the findings of the current Disparity Study, including an analysis of changes in the marketplace, changes to the number of women-owned and minority-owned businesses, and whether any disparity has widened or narrowed;
 - Examine whether or not and the extent to which evidence found supports the establishment or continuance of remedial programs, or whether program or policy changes are appropriate; including an assessment of contracting results compared with existing policies;
 - Produce a final report that includes, but is not limited to:
 - Findings from each portion of the study,
 - Points of comparison between this study and the 2009 Disparity Study,
 - Assessment of the current policies and practices, and
 - Recommendations based on findings to include recommendations for program enhancements (if appropriate) and/or race/gender neutral alternatives.
 - At the request of the Governmental Unit, provide additional analysis related to Veteran-Owned business utilization.
2. The Responder's methodology must provide statistical analysis with a minimum of 95 percent validity.

3. The methodology suggested in the Work Requirements represents one approach that may be taken. Responders who can justify alternate approaches are encouraged to submit them.
4. The Contractor will work closely with the Governmental Units' personnel, but will be responsible for all work product, deliverables, and outcomes.
5. Governmental Unit personnel will work in good faith with the Contractor to assist in the collection of data, review drafts, and otherwise provide guidance.

Overview of Participating Governmental Units

An overview of each participating Governmental Unit, including data availability (if available) is included as Attachments A1 – A9, as outlined below:

- A1. The State of Minnesota;
- A2. The Metropolitan Council;
- A3. The Metropolitan Airports Commission;
- A4. The Mosquito Control District;
- A5. Minnesota Sports Facilities Authority;
- A6. Minnesota State Colleges and Universities;
- A7. The City of Saint Paul;
- A8. The City of Minneapolis; and
- A9. Hennepin County.

Contract Classification

The Contractor must identify and classify the types of contracts that are awarded by each of the participating Governmental Units. The classification must include the following major categories. To the extent feasible, data should be analyzed at the North American Industrial Classification System (NAICS) code level. *To the extent applicable, and for no less than construction contracts and professional and technical services, Contractor must address subcontracting awards made by the contractors.*

1. Construction Contracts.
2. Professional and Technical Services.
3. Products, equipment, and supplies.
4. Miscellaneous services, including but not limited to janitorial services, rubbish services, snowplowing, landscaping and tree-trimming, etc.

The contracting activities (including subcontracting) of each participating Governmental Unit must be addressed for all major categories listed above. NAICS code groups within categories must be addressed whenever the levels of contracting activity suggest that examination is appropriate.

For each type of contract, including major categories and identified three-digit NAICS code groups, the analysis must include the total number of contracts issued and total dollar value of the contracts.

Contractor must identify the appropriate time period to be covered by the Study and the rationale for selecting that time period.

Market Area Identification by Category

For each contract category, and for all applicable subgroups, the Contractor must provide a definition and an analysis of the market area on which each participating Governmental Unit draws, and must provide its rationale for the definition of market area. The market area analysis will include consideration of the geographic locations from which bids or proposals are requested or received for contracts covering the categories identified above.

Availability and Utilization of Firms by Category

Total Number of Qualified Firms

For each contract category and for all identified subgroups, the total number of qualified firms available for work in the market area must be determined. Within each category and subgroup, the criteria used to define “qualified firms” must be provided. Contractor must describe its methodology in determining the availability of qualified firms.

Business Demographics Analysis

Within the relevant market areas for each participating Governmental Unit, the pool of qualified available firms must be analyzed to provide a business demographics breakdown showing the total numbers of businesses that are majority-owned, minority-owned (within each ethnic group as defined in Minnesota Rules Part 1230.0150, Subp.24, Item A), and woman-owned, with the percentage of the total that each group represents.

For each contract category and for all identified subgroups, the availability data must include information on business size, including breakdowns by ethnicity and gender of owners. Such data may be in the form of total annual receipts, total employees, and/or other such uniform measures.

Determination of Governmental Unit Woman-Owned and Minority Owned Utilization Rates

The Contractor must provide an analysis of the utilization of woman-owned and minority-owned businesses, by each participating Governmental Unit, within each contract category and identified subgroup. The utilization analysis must include the total number, dollar amount, or other appropriate measure of contracts issued in each category and subgroup. Within the total, the percentages issued to woman-owned and minority-owned businesses must be enumerated, with breakdowns by ethnicity and gender wherever possible.

Determination of Private Sector or Other Public Agency Targeted Group Business Utilization Rates

To the extent feasible, the Contractor must provide a sampling of the utilization of woman-owned and minority-owned businesses in the private sector and by other public

agencies, within each contract category and identified subgroup. The utilization analysis must, to the extent possible, include the total number of contracts issued in each category and subgroup or dollar amount, or other appropriate measure. Within the total, the percentages issued to Targeted Group, woman and minority-owned businesses must be enumerated, with breakdowns by ethnicity and gender wherever possible.

Utilization Analysis

The Contractor must perform a statistical analysis of the utilization rates to determine whether or not there is a significant statistical disparity between the availability of firms and their utilization by any of the participating Governmental Units. The Contractor must fully define "significant statistical disparity" as used in the analysis.

Evidence of Discrimination

Instances and Patterns of Discrimination

For each participating Governmental Unit, the Contractor must identify and provide a record and an analysis of any specific instances of discrimination and/or patterns and practices in the identified contract and market areas which have had a discriminatory impact upon woman-owned and minority-owned businesses and the development of woman-owned and minority-owned businesses. Such examination must include statistical disparities between availability and utilization; and should include past union practices, availability of bonding and financing, studies and findings of governmental agencies and commissions, lawsuits and other legal actions, and other statistical evidence which may be appropriate (including models of how a given industry or category might have developed in the absence of discrimination). Data must be gathered from a cross-section of the woman-owned and minority-owned business communities, agencies, contractors, procurement agents and other participants in the identified contract and market areas. The Contractor must identify all other methods of determining the existence of discrimination.

Public Testimony about Discrimination

The Contractor must assist in and coordinate with the division and each participating Governmental Unit's project coordinator a survey, public hearings, or other method to obtain testimony about past instances of discrimination, unintentional bias and disparate impact. Each proposal must detail the proposed use of surveys, public hearings or other methods for solicitation of testimony related to past discrimination. Any public meetings must comply with the State of Minnesota's open meeting laws.

Analysis of Governmental Units' Programs and Policies

The Contractor must identify and provide an analysis of programs and policies of each participating Governmental Unit that have a tendency to enhance or diminish the abilities of woman-owned and minority-owned businesses to compete effectively for the participating Governmental Unit's contracts. This analysis must identify the program or policy and the reasons, positive or negative, for its effect on woman-owned and minority-owned business participation. This analysis must include, but is not necessarily limited to, woman-owned and minority-owned business outreach programs and efforts, bonding and insurance policies, and advertising and outreach methods.

Race and Gender Neutral Techniques

Existing Programs

As to each participating Governmental Unit, the Contractor must identify and provide an analysis of the effectiveness of any race or gender neutral programs and/or techniques that have been used to try to increase woman-owned and minority-owned business participation in procurements, construction, and professional and technical services for the agencies.

Other Methods

As to each participating Governmental Unit, the Contractor must identify and discuss whether or not and the extent to which there are race or gender neutral methods available to the Governmental Unit which will continue to assure or better assure that the Governmental Unit does not become a passive participant in discrimination against minority- and woman-owned businesses. For any such identified methods, the Contractor must provide an estimate of the cost of implementation and a description of any perceived impediments.

Recommendations for Program Revisions or Development

As to each participating Governmental Unit, the Contractor must provide assistance and input to permit the Governmental Unit to improve or revise its programs, if necessary, to comply with the requirements of the Croson, Milliken, Adarand, and other relevant decisions. The Contractor must also provide a compilation of any Federal and State statutes, laws, and codes that affect local Governmental Units' abilities, either positively or negatively, to enact race- and gender-based preferential programs. Contractor must also recommend race- and gender-neutral alternatives to stimulate purchasing from Targeted Group (TG) vendors.

Work Products

General

The Contractor must provide various work products throughout the course of conducting this Study as designated in this RFP or as requested by the division through the project coordinators. Such products may include, but are not limited to, the following items:

1. Memoranda describing the methods to be used to obtain data on past contracting activity by the participating Governmental Units;
2. The data gathered and utilized in conducting the study;
3. Bi-weekly progress reports including:
 - a. Current activities of the Contractor;
 - b. Work performed, including material reviewed and contacts made during the previous period;
 - c. Whether work is on schedule, and if not, what methods are being utilized to return to the agreed- upon schedule;

- d. Known or anticipated problem areas and how they are being resolved;
4. Other specific data or information requested by the division or any participating Governmental Unit;
5. A survey or other methodology to be used to gather anecdotal evidence from past and prospective vendors; and
6. Other memoranda, reports and documents as required.

All work products will be the property of the participating Governmental Unit and may be used by the Governmental Unit and the State of Minnesota for any purposes, at their discretion.

Reporting Requirements

The Contractor will be required to make regular briefings to the division and participating Governmental Units.

1. The start-up report: due 30 days from contract award.
2. Bi-weekly status conferences, either in person or by teleconference.
3. A draft report: at least 15 days prior to the final report.
4. Executive Summary and Final Report: due no later than June 10, 2015.

The Final Report must incorporate all findings, data, and recommendations regarding all elements outlined in the scope of work.

Contractor Presentations

The Contractor must be available to make presentations to the division and the governing bodies of the participating Governmental Units and committees thereof, to explain Study methods, results, and reports.

Contractor Availability for Litigation

The Contractor must be available to testify or otherwise assist the division and participating Governmental Units in any litigation ensuing from or relating to the work resulting from this RFP and subsequent contract.

Computer-Based Data

The Contractor must provide to the division and each participating Governmental Unit a computer-based database of all records developed in relation to that Governmental Unit in the course of the Study, upon which further analysis and updating may be performed. Contractor must work with the project coordinator from the division and each participating Governmental Unit to ensure that the data is provided in a format compatible with the Governmental Unit's technology capabilities, including any new technologies currently in process.

Attachment A1: State of Minnesota

1. **Overview.** Under the authority of the commissioner of Administration pursuant to [Minn. Stat. Chapter 16C](#), the Materials Management Division (MMD) provides purchasing and contracting services for state agencies, except those specifically exempted by law. These services include purchasing construction, commodities, non-professional services, and some professional services.
2. **Contracting Process.** The division uses several different methods to purchase goods and services for state agencies. Formal, advertised, sealed bids are required by Minnesota law for all contracts of \$50,000 or more (except in the case of the Minnesota Department of Transportation, \$100,000 or more). For items having a value lower than that amount, purchasing staff typically use less formal methods such as unadvertised solicitations, written quotations, fax or phone solicitations.

In recent years, MMD has extended local purchase authority to state agencies that allows agency staff to purchase items of \$5000 or less without using a competitive process or working through the division. Additional authority, at levels ranging up to \$50,000 may be exercised by agency staff that have been trained and certified by the division. Additional authority is delegated to certain agencies (i.e., Natural Resources and Transportation Departments). The division has also adopted techniques that reduce the amount of processing time for purchases and provide agency staff with more responsibility for purchasing. One frequently used approach is the master contract. Here, division staff establishes fixed price contracts for groups of goods and services for a specific period of time. Agency staff, as well as participating local units of government, may then place orders using the contracts without the involvement of division staff.

State agencies generally have authority to enter into contracts for professional and technical services, with approval and oversight by MMD.

All purchasing and professional services contracting has been automated during the years covered by the study. Purchasing and contracting data is available in the state's automated accounting and procurement system (SWIFT) and in the state's data warehouse. In construction, subcontracting data is reported to the division by prime contractors, and is not maintained in the automated purchasing system. It is, however, recorded in an electronic format outside the purchasing system. Additionally, all accounting and payment information has been automated for all state agencies during the years covered by the study.

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Vertical Construction & Related	400 POs ¹ against 348 contracts ²	\$354M	370 POs ¹ against 362 contracts ²	\$168M
Horizontal Construction & Related	116 (MnDOT) ³	\$287M (MnDOT) ³	137 (MnDOT) ³ 1 (Other) ²	\$398M (MnDOT) ³ \$2M (Other) ²
Products, Equipment, Supplies	121K POs ¹	\$729M ¹	122K POs ¹	\$1,315M ¹
Professional/Technical Services	12K POs ¹ against 4,842 contracts ² (of which 1,678 were work orders off master contracts)	\$522M ¹	11K POs ¹ against 4,686 contracts ² (of which 1,688 were work orders off master contracts)	\$576M ¹
Other				

¹ Source: SWIFT via EPM Warehouse

² Source: Transparency MN

³ State Funded Contracts Only

3. Contract Data Availability - General

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)	4 years	Paper/Electronic	Oracle/PeopleSoft (SWIFT)
Subcontractors (Professional & Technical)	None	N/A	N/A
Prime Contractors (Construction)	4 years	Paper/Electronic	Oracle/PeopleSoft (SWIFT)
Subcontractors (Construction)	4 years	Paper/Electronic	Access
Products, Equipment, Supplies	4 years	Paper/Electronic	Oracle/PeopleSoft (SWIFT)
Payment Data	4 years	Electronic	Oracle/PeopleSoft (SWIFT)

Contract Data Availability - MnDOT

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)	7 years	Electronic	CART / SWIFT/ eDOCs
Subcontractors (Professional & Technical)	7 years	Electronic/paper	CART / SWIFT/ eDOCs
Prime Contractors (Horizontal Construction)	7 years	Electronic/paper	Construction Mgmt System / SWIFT
Subcontractors (Horizontal Construction)	7 years	Electronic / Paper	CMS / Paper files
Products, Equipment, Supplies			
Payment Data			SWIFT / MAPS

4. **Summary of Existing Preference Programs.** The 1990 Legislature enacted a program for Targeted Group (TG) small businesses. A Targeted Group vendor is defined as a small Minnesota-based business, which is majority owned and operated on a day-to-day basis by a minority, woman, or person with a substantial physical disability. The overall goal of this program is to remedy the effects of past discrimination. Division staff is responsible for administering the Targeted Group Vendor Program. Specific Targeted Group Vendor Program services include recruiting and certifying vendors who meet eligibility requirements, recommending TG vendor utilization requirements on purchases and contracts, and monitoring TG vendor use against overall program goals. Currently, there are approximately 950 certified TG vendors participating in the program.

It should be noted that the Department of Administration provides centralized certification of eligible vendors for programs provided for in state statutes at the Metropolitan Council, the Metropolitan Airports Commission and the Metropolitan Mosquito Control District. The current program is, by statute ([Minn. Stat. § 16C.16](#)), permissive rather than mandatory, and allows the commissioner of Administration to provide purchasing preference for eligible businesses, to set aside purchases for bidding by eligible businesses only, and to set subcontracting goals on construction and professional services contracts. Under preference, a purchase or contract may be awarded to an eligible certified Targeted Group vendor if the TG vendor's bid or proposal is otherwise acceptable and is within (up to) 6 percent of the lowest acceptable bid or proposal by a vendor who is not a TG vendor. Preference purchasing is the method most often used; set-asides are rarely used. Subcontracting goals are set on a project-by-project basis, taking into account the nature of the work, the location of the work, the availability of TG vendors to perform the work, and the matrix of eligibility as issued in the [Commissioner's Order](#) of June 6, 2011.

Summary of MnDOT Program. MnDOT administers two preference programs for women and minority owned small businesses. The Targeted Group Business program applies to state funded construction and professional/technical contracts. Likewise, the Disadvantaged Business Enterprise (DBE) program applies to federally funded contracts.

Attachment A2: Metropolitan Council

1. **Overview.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION

2. **Contracting Process.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related	220	\$30,000,000	1300	\$28,000,000
Products, Equipment, Supplies	30,000	\$130,000,000	24,000	\$280,000,000
Professional/Technical Services	2750	\$47,000,000	35,000	120,000,000
Other	50	\$2,100,000	60	\$32,000,000

3. **Contract Data Availability.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)			
Subcontractors (Professional & Technical)			
Prime Contractors (Construction)			
Subcontractors (Construction)			
Products, Equipment, Supplies			
Payment Data			

4. **Summary of Existing Preference Programs.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION

Attachment A3: The Metropolitan Airports Commission

1. **Overview.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM
2. **Contracting Process.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related	85	\$26,000,000		
Products, Equipment, Supplies	178	\$38,000,000		
Professional/Technical Services	104	\$18,000,00		
Other				

3. **Contract Data Availability.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)			
Subcontractors (Professional & Technical)			
Prime Contractors (Construction)			
Subcontractors (Construction)			
Products, Equipment, Supplies			
Payment Data			

4. **Summary of Existing Preference Programs.** INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

Attachment A4: The Mosquito Control District

1. **Overview.** The Metropolitan Mosquito Control District promotes health and well being by protecting the public from disease and annoyance caused by mosquitoes, black flies and tick, in an environmentally safe manner.
2. **Contracting Process.** Assess need, determine if purchase requires a contract for services, if determined complete requisition of purchase providing three bids for services, make choice based on terms, price, availability and product/service quality.

	FY 2013		FY 2014	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related	79	365,819	55	157,813
Products, Equipment, Supplies	452	4,839,653	429	5,749,275
Professional/Technical Services	132	491,332	140	250,429
Other	227	3,110,135	221	2,118,516

3. Contract Data Availability.

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)	1-3 yrs	Manual/paper	
Subcontractors (Professional & Technical)	1-3 yrs	Manual/paper	
Prime Contractors (Construction)	1-3 yrs	Manual/paper	
Subcontractors (Construction)	Na	Na	
Products, Equipment, Supplies	Na	Na	
Payment Data			

4. **Summary of Existing Preference Programs.** Currently no specific preference program related to women and minority owned businesses.

Attachment A5: Minnesota Sports Facilities Authority

INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

1. **Overview.**

2. **Contracting Process.**

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related				
Products, Equipment, Supplies				
Professional/Technical Services				
Other				

3. **Contract Data Availability.**

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)			
Subcontractors (Professional & Technical)			
Prime Contractors (Construction)			
Subcontractors (Construction)			
Products, Equipment, Supplies			
Payment Data			

4. **Summary of Existing Preference Programs.**

Attachment A6: Minnesota State Colleges and Universities

- Overview.** The Minnesota State Colleges and Universities (MnSCU) system of distinct and collaborative institutions offers higher education that meets the personal and career goals of a wide range of individual learners, enhances the quality of life for all Minnesotans and sustains vibrant economies throughout the state. MnSCU is the largest single provider of higher education in the state of Minnesota and the fifth largest system of colleges and universities in the United States. The system includes 31 institutions (24 technical and community colleges and seven state universities) spanning 54 campuses across 47 Minnesota communities serving more than 435,000 students annually. MnSCU is Minnesota’s most affordable higher education option and serves anyone with a high school diploma or GED. Currently 66 percent of all Minnesota residents pursuing an undergraduate credential are enrolled at a MnSCU college or university.
- Contracting Process.** MnSCU primarily uses the following procurement methods: Request for Proposal (RFP), competitive sealed bids, informal competitive bids, request for quotation, and direct negotiation.

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related	4989	\$125,587,275.00	4230	\$96,723,815.00
Products, Equipment, Supplies	34,607	\$171,185,815.00	34,093	\$161,738,648.00
Professional/Technical Services	133,943	\$116,022,855.00	124,865	\$91,772,108.00
Other	96,653	\$169,312,795.00	91,645	\$168,004,258.00

3. Contract Data Availability.

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)	At least 3 years – possibly more	Electronic	Microsoft Excel
Subcontractors (Professional & Technical)	Subcontractor info not available	N/A	N/A
Prime Contractors (Construction)	At least 3 years – possibly more	Electronic	Microsoft Excel
Subcontractors (Construction)	Subcontractor info not available	N/A	N/A
Products, Equipment, Supplies	At least 3 years – possibly more	Electronic	Microsoft Excel
Payment Data	At least 3 years – possibly more	Electronic	Microsoft Excel

- Summary of Existing Preference Programs.** MnSCU utilizes the Minnesota Department of Administration’s Targeted Group/Economically Disadvantaged/Veteran-Owned (TG/ED/VO) Small Business Procurement Program registry and preferences.

Attachment A7: The City of Saint Paul

1. **Overview.** The City of Saint Paul strives to ensure equity in contracting through local laws, compliance, outreach programs, multi-jurisdictional small business certification program and cross-department partnerships geared towards education staff and the community on resources available to help our local small businesses.
2. **Contracting Process.** The contractor process for the City of St. Paul may be, generally divided into two processes. The City of Saint Paul, largely publicly bids and uses the Infor-Lawson ERP System, which is facilitated through the online Supplier Portal to accomplish this. The HRA, generally, solicits bids from developers. As it relates to the HRA, a great deal of contracting activity as it relates to local small minority-owned and woman-owned businesses occurs through private companies contracting with the HRA that solicit bids from local businesses.

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Vertical Construction & Related*	104	\$81,037,536	19	\$146,775,625
Horizontal Construction & Related*	17	\$18,943,741	89	\$14,032,788
Products, Equipment, Supplies	36,558	\$57,411,026	58,685	\$42,675,239
Professional/Technical Services**	11,741	\$32,900,971	23,258	\$37,612,575
Other	Unknown	Unknown	Unknown	Unknown

*As it relates to the number of transactions for construction, there are over 3,000 transactions noted in Info. This is the case because every pay request is viewed as a transaction in that system. In order to evaluate only newly added projects for FY 2014 and divide those projects into “Vertical” and “Horizontal”, we had to pull data from B2Gnow. In doing that, the system consolidates all transactions into one newly added project. This is why those numbers appear much lower than the others, because of the consolidation of the smaller transactions into 1 project.

**As it relates to the subcategories of the “Professional/Technical Services” section, we have broken out Architecture/Engineering, Information Technology, and Real Estate Professionals. We have done this because we are aware transactions occurring there, but, we do not have all of the accurate data to provide for each, currently. We also want to know more about current opportunities existing there to better understand future possibilities.

3. **Contract Data Availability.**

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)	2 years	Electronic	B2Gnow; Infor-Lawson ERP System
Subcontractors (Professional & Technical)	2 years	Electronic	B2Gnow; Infor-Lawson ERP System
Prime Contractors (Construction)	2 years	Electronic	B2Gnow; Infor-Lawson ERP System
Subcontractors (Construction)	2 years	Electronic	B2Gnow; Infor-Lawson ERP System
Products, Equipment, Supplies	2 years	Electronic	B2Gnow; Infor-Lawson ERP System
Payment Data	2 years	Electronic	B2Gnow; Infor-Lawson ERP System

4. **Summary of Existing Preference Programs.** The City of Saint Paul has local law, through the Vendor Outreach Program Ordinance, that requires the City of Saint Paul to set small business inclusion goals. These small business inclusion goals also have sub goals for local small minority-owned and small woman-owned business enterprises. In addition, the City of Saint Paul is the lead agency for the Central Certification Program Collaborative (“CERT”). CERT is the local certification for small businesses. CERT partners with local organizations that serve minority-owned and woman-owned businesses to inform their members of opportunities to contract with the government. Lastly, the City of Saint Paul has the Minority Business Development Retention Program (“MBDR”). MBDR allows for the City to have funds available to contract with community organization that work to assist our local small businesses through things such as technical assistance and trainings.

Attachment A8: The City of Minneapolis

1. **Overview.** The Contract Compliance Division monitors City of Minneapolis construction and development, commodities and supplies, and professional and technical services contracts by enforcing related local and federal civil rights and wage laws and policies. CCD monitors City contracts to ensure that minorities, woman and low-income business owners and workers have access to employment and contracting opportunities; and that workers are paid appropriate wages. CCD is responsible for ensuring compliance in five primary program areas: affirmative action, minority and woman business inclusion, minority and female employment, Davis Bacon and prevailing wage, and HUD Section 3 contracting and employment. CCD is also a certifying agency of the [Minnesota Unified Certification Program](#) (MNUCP), a statewide collaboration, certifying disadvantaged businesses.

2. Contracting Process.

Informal – (\$1,000 to \$50,000 in one year)

Procurement is responsible for selecting the lowest overall total cost supplier that meets the user furnished specifications and requirements. This will generally be accomplished through a competitive bid process. A competitive situation, with regard to pricing, is defined as that situation where at least two written prices are obtainable from different sources of supply.

Formal – (over \$50,000 in one year)

1. Department completes specifications and routes to Civil Rights for Small and Underutilized Business Program (SUBP) goals to be established and included in the specs.
 2. Department furnishes the specifications to Procurement.
 3. Call for Bids is sent out by Procurement and direct advertisement in Finance and Commerce is prepared. Advertisement must be published twice and be for a minimum of ten (10) days for materials or equipment. Construction bids require a minimum of three (3) weeks.
 4. Bids are received by Procurement and opened at a formal bid opening.
 5. The Department reviews the bids and returns their recommendation, *in writing*, to Procurement.
 6. Procurement then prepares a formal recommendation letter to Council or Board
 7. For City departments, if the low bid (of multiple bids) is accepted and no formal contract is required, the Staff Purchasing Committee (Purchasing Agent, Department Head and City Attorney) prepares a Staff Purchasing Report (copies to City Council) and Procurement prepares the Purchase Order.
- If the low bid is not accepted, or if only one bid is received, Procurement prepares a Council Committee letter that explains the reason for accepting the bid. This letter is signed by the Purchasing Agent and the Department Head. The requesting department recommends approval to their Council Policy Committee.
 - If the procurement requires a contract, and is low bid, Procurement submits a letter signed by the requesting Department Head to the Ways and Means/Budget Committee for approval. Procurement will draft the formal contract and amendments or change orders pertaining to such contracts.
 - The Council Committee recommends an action for full Council and the Mayor. The final action is published in Finance and Commerce.
 - Contracts must be approved by the City Attorney for legality whether the contract is prepared by the City Attorney or another agency. A Park Board attorney reviews the Park Board contracts.

Professional Services (up to \$50,000)

1. Draft detailed and objective scope
2. Estimated cost of service
3. Assign Contract Manager
4. Vendor Selection
5. Contract Form
6. Signatures
7. Send Contract to Contract Management Office
8. Encumbering a Contract
9. Amendments to a Contract

Professional Services (over \$50,000)

1. Identify the need and communication to stakeholders
2. Prepare RFP
3. PRC review/approval RFP
4. Council approval for contracts over \$1M
5. Publishing of RFP and receiving proposals
6. RFP evaluation and contract drafting
7. Council approval of the contractor
8. Signatures
9. Amendments to contracts

INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related				
Products, Equipment, Supplies				
Professional/Technical Services				
Other				

3. **Contract Data Availability.**

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)			
Subcontractors (Professional & Technical)			
Prime Contractors (Construction)			
Subcontractors (Construction)			
Products, Equipment, Supplies			
Payment Data			

4. **Summary of Existing Preference Programs.** The City of Minneapolis does not have any preference programs related to woman and minority owned businesses.

Attachment A9: Hennepin County

INFORMATION NOT AVAILABLE AT TIME OF PUBLICATION - TO BE PROVIDED BY ADDENDUM

1. **Overview.**

2. **Contracting Process.**

	FY 2014		FY 2015	
	# Transactions (approximate)	Total Dollars (approximate)	# Transactions (approximate)	Total Dollars (approximate)
Construction & Related				
Products, Equipment, Supplies				
Professional/Technical Services				
Other				

3. **Contract Data Availability.**

	Amount Available	Form	Systems Used
Prime Contractors (Professional & Technical)			
Subcontractors (Professional & Technical)			
Prime Contractors (Construction)			
Subcontractors (Construction)			
Products, Equipment, Supplies			
Payment Data			

4. **Summary of Existing Preference Programs.**

Exhibit B - Technical Worksheet

Please use this worksheet to indicate the level of your response to this RFP. Please choose one or more. Then complete and attach the Technical Proposal.

- Option 1: For all Government Units, including all tasks as set forth in Exhibit A (Scope of Work)
- Option 2: The State of Minnesota, The Metropolitan Council, The Metropolitan Airports Commission, The Mosquito Control District (including marketplace/availability analysis and other common study elements)
- Option 3: For one or more LGUs (excluding marketplace/availability analysis and other common study elements) as indicated below:
 - Minnesota Sports Facilities Authority
 - Minnesota State Colleges and Universities
 - The City of Saint Paul
 - The City of Minneapolis
 - Hennepin County

Exhibit C - Cost Worksheet

Option Number	Governmental Unit	Total Cost (Without Marketplace Availability and Other Common Study Elements)	Total Cost for Marketplace Availability and Other Common Study Elements
1	The State of Minnesota The Metropolitan Council The Metropolitan Airports Commission The Mosquito Control District		
2	Minnesota Sports Facilities Authority		
3	Minnesota State Colleges and Universities		
4	The City of Saint Paul		
5	The City of Minneapolis		
6	Hennepin County		
7	All Governmental Units		

Additional Instructions

1. A breakdown of your costs, as set forth above, should be included as an additional attachment to your Cost Proposal, and should include as a minimum, a cost per project task or deliverable.
2. Total Costs should include all costs (fully burdened) related to the performance of work, deliverables, and tasks set forth under your Technical Proposal.
3. Costs related to Optional or Additional Services that are not part of your core offering should be included separately in your Cost Proposal as an additional attachment.

Exhibit D - General Requirements, Forms, and Sample Contract

General Requirements

Affidavit of Noncollusion

Each responder must complete the attached Affidavit of Noncollusion and include it with the response.

Conflicts of Interest

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

Proposal Contents

By submission of a proposal, Responder warrants that 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.

Disposition of Responses

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statute § 13.37, the Responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

Notwithstanding the above, if the State contracting party is part of the judicial branch, the release of data shall be in accordance with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes Section 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.

Sample Contract

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample State of Minnesota Professional/Technical Services Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP;

certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

Reimbursements

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the contractor as a result of the contract will be in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

Organizational Conflicts of Interest

The responder warrants that, to the best of its 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, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD") 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 organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the State's rights.

Foreign Outsourcing of Work Prohibited

Subject to the restrictions set forth under the World Trade Organization Agreement on Government Procurement, 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 subcontractors at all tiers.

Work Force Certification

For all contracts estimated to be in excess of \$100,000, responders are required to complete the attached Affirmative Action Data page and return it with the response. As required by Minnesota Rule 5000.3600, "It is hereby agreed between the parties that Minnesota Statute § 363A.36 and Minnesota Rule 5000.3400 - 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statute § 363A.36 and Minnesota Rule 5000.3400 - 5000.3600 are available upon request from the contracting agency."

Equal Pay Certification

If the Response to this solicitation could be in excess of \$500,000, the Responder must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption prior to contract execution. A responder is exempt if it has not employed more than 40 full-time employees on any single working day in one state during the previous 12 months. 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.

Certification Regarding Lobbying

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must complete the attached **Certification Regarding Lobbying** and submit it as part of its proposal.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must certify the following, as required by the regulations implementing Executive Order 12549.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from

participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Insurance Requirements

- A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract.
- B. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:
 1. **Workers' Compensation Insurance:** 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 of Minnesota, 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 Minnesota Statute 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, 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 of Minnesota with a certificate of insurance.

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 – 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

Other; if applicable, please list _____

State of Minnesota named as an Additional Insured, to the extent permitted by law

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

4. **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance**

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.

Contractor is required to carry the following **minimum** limits:

\$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.

C. Additional Insurance Conditions:

- Contractor’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of Contractor’s performance under this contract;
- If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State of Minnesota 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 of Minnesota;
- Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- Contractor’s policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of B.4 above;
- Contractor shall obtain insurance policy(ies) from insurance company(ies) having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- 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.

D. 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.

E. The successful responder is required to submit Certificates of Insurance acceptable to the State of MN as evidence of insurance coverage requirements prior to commencing work under the contract.

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

By submission of a proposal for services 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. In the event of contract award, Contractor shall be 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.

Attachment D1 - State of Minnesota Certification Regarding Lobbying

For State of Minnesota Contracts and Grants over \$100,000

The undersigned 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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients 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. Submission of this certification 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.

Organization Name

Name and Title of Official Signing for Organization

By: _____
Signature of Official

Date

Attachment D2 - State of Minnesota Affirmative Action Certification

If your response to this solicitation is or could be in excess of \$100,000, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. **It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.**

BOX A – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to BOX B.

Your response will be rejected unless your business:

has a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR)

–or–

has submitted an affirmative action plan to the MDHR, which the Department received prior to the date the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- We have a current Certificate of Compliance issued by the MDHR. **Proceed to BOX C. Include a copy of your certificate with your response.**
- We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on _____ (date). **Proceed to BOX C.**
- We do not have a Certificate of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. **We acknowledge that our response will be rejected. Proceed to BOX C. Contact the Minnesota Department of Human Rights for assistance.** (See below for contact information.)

Please note: Certificates of Compliance must be issued by the Minnesota Department of Human Rights. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed, and approved by the Minnesota Department of Human Rights before a certificate can be issued.

BOX B – For those companies not described in BOX A

Check below.

- We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to BOX C.**

BOX C – For all companies

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: _____ Date _____

Authorized Signature: _____ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance & Community Relations

Mail: The Freeman Building 625 Robert Street North, Saint Paul, MN 55155 TC Metro: (651) 296-5663 Toll Free: 800-657-3704

Web: www.humanrights.state.mn.us Fax: (651) 296-9042 TTY: (651) 296-1283

Email: compliance.mdhr@state.mn.us

Affirmative Action Certification Page, Revised 6/11 - MDHR

Attachment D3 - 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	

Attachment D4 - State of Minnesota Affidavit of Non-collusion

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to the _____ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal 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 such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: _____

Authorized Representative (Please Print) _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this _____ day of _____

Notary Public Signature: _____

My commission expires: _____

Attachment D5 - State of Minnesota Resident Vendor Form

In accordance with Laws of Minnesota 2013, Chapter 142, Article 3, Section 16, amending Minn. Stat. § 16C.02, subd. 13, a “Resident Vendor” means a person, firm, or corporation that:

- (1) is authorized to conduct business in the state of Minnesota on the date a solicitation for a contract is first advertised or announced. It includes a foreign corporation duly authorized to engage in business in Minnesota;
- (2) has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought;
- (3) has a business address in the state; and
- (4) has affirmatively claimed that status in the bid or proposal submission.

To receive recognition as a Minnesota Resident Vendor (“Resident Vendor”), your company must meet each element of the statutory definition above by the solicitation opening date and time. If you wish to affirmatively claim Resident Vendor status, you should do so by submitting this form with your bid or proposal.

Resident Vendor status may be considered for purposes of resolving tied low bids or the application of a reciprocal preference.

I HEREBY CERTIFY THAT THE COMPANY LISTED BELOW:

1. Is authorized to conduct business in the State of Minnesota on the date a solicitation for a contract is first advertised or announced. *(This includes a foreign corporation duly authorized to engage in business in Minnesota.)*
 Yes **No (must check yes or no)**
2. Has paid unemployment taxes or income taxes in the State of Minnesota during the 12 calendar months immediately preceding submission of the bid or proposal for which any preference is sought.
 Yes **No (must check yes or no)**
3. Has a business address in the State of Minnesota.
 Yes **No (must check yes or no)**
4. Agrees to submit documentation, if requested, as part of the bid or proposal process, to verify compliance with the above statutory requirements.
 Yes **No (must check yes or no)**

BY SIGNING BELOW, you are certifying your compliance with the requirements set forth herein and claiming Resident Vendor status in your bid or proposal submission.

Name of Company: _____ Date: _____
Authorized Signature: _____ Telephone: _____
Printed Name: _____ Title: _____

IF YOU ARE CLAIMING RESIDENT VENDOR STATUS, SIGN AND RETURN THIS FORM WITH YOUR BID OR PROPOSAL SUBMISSION.

Attachment D6 - Sample State of Minnesota Professional and Technical Services Master Contract & Sample Work Order

[If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.]

[INSTRUCTIONS FOR COMPLETING THIS FORM ARE IN RED. FILL IN EVERY BLANK AND DELETE ALL INSTRUCTIONS BEFORE SENDING THIS TO THE CONTRACTOR.]

STATE OF MINNESOTA PROFESSIONAL AND TECHNICAL SERVICES MASTER CONTRACT

This master contract is between the State of Minnesota, acting through its **[FILL IN THE NAME OF YOUR AGENCY OR BOARD. EXAMPLE: "commissioner of _____" OR "director of _____."]** ("State") and **[GIVE THE FULL NAME OF THE CONTRACTOR INCLUDING ITS ADDRESS]** ("Contractor").

Recitals

1. Under Minnesota Statute § 15.061 **[INSERT ADDITIONAL STATUTORY AUTHORIZATION IF NECESSARY]** the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of **[ADD BRIEF NARRATIVE OF THE PURPOSE OF THE CONTRACT]**.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this master contract and performed under work order contracts to the satisfaction of the State.

Master Contract

1 Term of Master Contract

- 1.1 **Effective Date:** **[SPELL OUT FULL DATE (e.g., April 1, 2001)]**, or the date the State obtains all required signatures under Minnesota Statute § 16C.05, subdivision 2, whichever is later.
The Contractor must not accept work under this master contract until this master contract is fully executed and the Contractor has been notified by the State's Authorized Representative that it may begin accepting Work Order Contracts.
- 1.2 **Work Order Contracts.** The term of work under work order contracts issued under this master contract may not extend beyond the expiration date of this master contract.
- 1.3 **Expiration Date:** **[SPELL OUT FULL DATE (e.g., April 1, 2001)]**.
- 1.4 **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 18. Data Disclosure.

2 Scope of Work

The Contractor, who is not a state employee, may be requested to perform any of the following services under individual work order contracts:

[PROVIDE INFORMATION ON THE DUTIES YOU WANT THE CONTRACTOR TO PERFORM. Example: "The Scope of Work for this master contract may include one or all of the following as described. A complete detailed description of required work will be furnished in each work order contract issued."]

The Contractor understands that only the receipt of a fully executed work order contract authorizes the Contractor to begin work under this master contract. Any and all effort, expenses, or actions taken before the work order contract is fully executed is not authorized under Minnesota Statutes and is under taken at the sole responsibility and expense of the Contractor. A sample work order contract is attached and incorporated into this master contract as Exhibit A.

The Contractor understands that this master contract is not a guarantee of a work order contract. The State has determined that it may have need for the services under this master contract, but does not commit to spending any money with the Contractor.

3 Time

The Contractor must comply with all the time requirements described in work order contracts. In the performance of work order contracts, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** The State will pay for all services satisfactorily performed by the Contractor for all work order contracts issued under this master contract. The total compensation of all work order contracts may not exceed \$_____.

Travel Expenses. Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of any work order contract will be reimbursed in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

4.2 Payment

(A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely no more frequently than monthly.

(B) **Retainage.** Under Minnesota Statute § 16C.08, subdivision 2 (10), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order 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 the work order contract.

5 Conditions of Payment

All services provided by the Contractor under a work order contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. 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 and Project Managers

The State's Authorized Representative for this master contract is [NAME, TITLE, ADDRESS, TELEPHONE NUMBER], or his/her successor, and has the responsibility to monitor the Contractor's performance.

The State's Project Manager will be identified in each work order contract.

The Contractor's Authorized Representative is [NAME, TITLE, ADDRESS, TELEPHONE NUMBER]. If the Contractor's Authorized Representative changes at any time during this master contract, the Contractor must immediately notify the State.

The Contractor's Project Manager will be identified in each work order contract.

7 Assignment, Amendments, Waiver, and Contract Complete

7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this master contract or any work order contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this master contract, or their successors in office.

- 7.2 **Amendments.** Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or its right to enforce it.
- 7.4 **Contract Complete.** This master contract and any work order contract contain all negotiations and agreements between the State and the Contractor. No other understanding regarding this master contract or work order contract, whether written or oral, may be used to bind either party.

8 Indemnification

In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor 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 Contractor's:

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

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 Contractor may have for the State's failure to fulfill its obligation under this contract.

9 State Audits

Under Minnesota Statute § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this master contract.

10 Government Data Practices and Intellectual Property

10.1 **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, as it applies to all data provided by the State under any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under the work order contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data referred to in this clause 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 the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

10.2 Intellectual Property Rights

- (A) **Intellectual Property Rights.** 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 work order contracts*. 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 master contract or any work order contract. Works includes "Documents." 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 a work order contract. The Documents will 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 the work order 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.

(B) *Obligations*

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 the work order contract, the Contractor will immediately give the State’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.
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. Notwithstanding Clause 8, 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.

DELETE THIS SECTION IF YOUR TOTAL CONTRACT VALUE IS UNDER \$100,000

11 Affirmative Action Requirements for Contracts in Excess of \$100,000 and if the Contractor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business

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

- 11.1 *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 principle place of business, then the Contractor must comply with the requirements of Minnesota Statute § 363A.36 and Minnesota Rule Parts 5000.3400-5000.3600. A contractor covered by Minnesota Statute § 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.
- 11.2 *Minnesota Statute § 363A.36.* Minnesota Statute § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
- 11.3 *Minnesota Rule Parts 5000.3400-5000.3600.*
 - (A) *General.* Minnesota Rule Parts 5000.3400-5000.3600 implement Minnesota Statute § 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 Minnesota Rule Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

- (B) *Disabled Workers.* The Contractor must comply with the following affirmative action requirements for disabled workers.
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.
 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.
 3. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 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 of the Minnesota Department of Human Rights. 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.
 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 Minnesota Statutes Section 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.
- (C) *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.
- (D) *Certification.* The Contractor hereby certifies that it is in compliance with the requirements of Minnesota Statute§ 363A.36 and Minnesota RuleParts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

12 Workers' Compensation and Other Insurance

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract. [IF NO SOLICITATION WAS DONE (E.G., SINGLE SOURCE PROCUREMENT) INSERT ALL INSURANCE REQUIREMENTS HERE. QUESTIONS ABOUT INSURANCE CAN BE DIRECTED TO RISK MANAGEMENT AT 651.201-2591]

Further, the Contractor certifies that it is in compliance with Minnesota Statute§ 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

13 Publicity and Endorsement

13.1 *Publicity.* Any publicity regarding the subject matter of a work order 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, 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 a work order contract.

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

14 **Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract and/or any work order contracts, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15 **Payment to Subcontractors**

(If applicable) As required by Minnesota Statute § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

16 **Minnesota Statute § 181.59** The vendor will comply with the provisions of Minnesota Statute § 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

17 **Termination**

17.1 **Termination by the State.** The State or commissioner of Administration may cancel this master contract and any work order contracts at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

17.2 **Termination for Insufficient Funding.** The State may immediately terminate this master contract and any work order 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 covered here. Termination must be by written or fax 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 funds are available. The State will not be assessed any penalty if the master contract or work order 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 within a reasonable time of the State's receiving that notice.

18 **Data Disclosure**

Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or 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.

19 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.

**SAMPLE STATE OF MINNESOTA
PROFESSIONAL AND TECHNICAL SERVICES
WORK ORDER CONTRACT**

This work order contract is between the State of Minnesota, acting through its ____ ("State") and ____ ("Contractor"). This work order contract is issued under the authority of Master Contract T-Number _____, CFMS Number _____, and is subject to all provisions of the master contract which is incorporated by reference.

Work Order Contract

1 Term of Contract

1.1 *Effective date:* ____, or the date the State obtains all required signatures under Minnesota Statute § 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:* ____, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2 Contractor's Duties

The Contractor, who is not a state employee, will: _____.

3 Consideration and Payment

3.1 *Consideration.* The State will pay for all services performed by the Contractor under this work order contract as follows:

(A) *Compensation.* The Contractor will be paid ____.

(B) *Travel Expenses.* Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this work order contract will not exceed \$____.

(C) *Total Obligation.* The total obligation of the State for all compensation and reimbursements to the Contractor under this work order contract will not exceed \$____.

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

4 Project Managers

The State's Project Manager is _____. The State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Project Manager is _____. If the Contractor's Project Manager changes at any time during this work order contract, the Contractor must immediately notify the State.

SIGNATURES AS REQUIRED BY THE STATE.