

Purchasing Department  
2645 Long Lake Road  
Roseville, MN 55113  
Fax: 651-635-8188  
Email: [purchasing@mnlottery.com](mailto:purchasing@mnlottery.com)



**State of Minnesota  
Request for Bid (RFB)  
for a Price Contract**

**Title: RE-BID\_WE Fest 2019 Lodging\_RFB**

**Due Date: March 13, 2019**

**Time: 2 p.m. Central Time**

STATE OF MINNESOTA  
MINNESOTA STATE LOTTERY  
PURCHASING DEPARTMENT  
2645 LONG LAKE ROAD  
ROSEVILLE, MN 55113

REQUEST FOR BID (RFB) FOR A PRICE CONTRACT  
*This RFB is issued for the purpose of establishing a contract to  
supply the State with the commodity or service stated herein.*

Contact Person: Kolby Sabrina, Buyer  
Email: purchasing@mnlottery.com

Date: Tuesday, March 5, 2019

Phone: 651-635-8202

Fax: 651-635-8188

Due Date: *Wednesday, March 13, 2019, 2:00 p.m. Central Time, USA.*

Responses must be received in the Minnesota State Lottery office, at the address shown above, and date- and time-stamped in not later than the date and time stated above. All responses will be publicly opened and portions thereof read aloud at the above date and time, in accordance with Minn. Stat. § 13.591, subd. 3. **LATE RESPONSES WILL NOT BE CONSIDERED.**

Entities that may utilize the Contract: Minnesota State Lottery Only

**Contract Period:** The Contract term will begin on July 30, 2019 or on the date of contract execution, whichever is later, to August 4, 2019.

Anticipated Award Date: March 15, 2019

Commodity or Service: Lodging for the MN State Lottery Staff for the 2019 WE Fest in Detroit Lakes, MN

All attached General RFB Terms and Conditions, Specifications, and Special Terms and Conditions are part of this RFB and will be incorporated into any Contract(s) entered into as a result of this RFB. This is a request for response to an RFB and is not a purchase order.

All responses to this RFB must be prepared as stated herein and properly signed. Address all correspondence and inquiries regarding this RFB to the Buyer named above. Contact regarding this RFB with any State personnel other than the Buyer may result in rejection of the response.

**Delivery Offered \_\_\_ days After Receipt of Order if different than called for in the Special Terms and Conditions.**

**Prompt Payment Terms (if available):**  \_\_\_% 30;  \_\_\_% 15/Net 30;  \_\_\_% 10/Net 30,  Other (specify): \_\_\_\_\_

**Name of Vendor:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Authorized Signature** \_\_\_\_\_ **Typed Name of Signer:** \_\_\_\_\_

**Title:** \_\_\_\_\_

*Signer must be authorized to contractually obligate the vendor.*

**Type or print clearly the name of the person who prepared the response:** \_\_\_\_\_

## GENERAL TERMS AND CONDITIONS

### 1. ESTIMATED AMOUNT.

If there is an estimated total dollar value of the Contract listed in the Special Terms and Conditions, this shall not be construed as either the minimum or maximum amount. It shall also be understood and accepted by the responder that any quantities shown in this RFB are estimated quantities only and impose no obligation upon the State either minimum or maximum.

### 2. TIME OF SUBMISSION.

All responses must be received by the Minnesota State Lottery (MSL) by the due date and time. All responses will be time-stamped showing the date and time received. **Late responses will not be considered.**

### 3. ALTERATIONS OR ERASURES.

An alteration or erasure of any price contained in the response may be rejected unless the price figure is crossed out and the correction is initialed by the person signing the response. **This includes, but is not limited to, correction fluid and typewriter correction tape.**

### 4. AUTHORIZED SIGNATURE.

The response must be fully and properly executed by an officer or other authorized representative of the responder. If the responder is a corporation, a secretarial certificate or the corporate minutes showing that the signing officer has authority to contractually obligate the corporation should be furnished. Where the corporation has designated an attorney-in-fact, the power of attorney form should be furnished. If the responder is a partnership, a letter of authorization should be furnished signed by one of the general partners. A sole proprietor must sign the response. Proof of authority of the person signing the response must be furnished upon request.

### 5. FACSIMILE OR EMAIL RESPONSES.

Neither facsimile nor e-mail responses will be considered unless specifically authorized by the State in the RFB document.

### 6. ACCEPTANCE OR REJECTION OF RESPONSES.

The State reserves the right to accept or reject any or all responses, or parts of responses, and waive any informalities.

### 7. ADDENDA TO THE RFB.

Changes to the RFB will be made by written addendum and located on the MSL Vendor website at <https://www.mnlottery.com/vendors/>. Any addenda issued will become part of the RFB. Each responder must follow the directions on the addendum. All requests for clarification must be directed to the contact person listed in the RFB.

### 8. RESPONDER ERRORS.

Prior to the opening of sealed responses any responder may withdraw its response by notifying the MSL in writing of the desire to withdraw, by appearing in person at OSP and withdrawing the response, or by facsimile received by the director, requesting withdrawal of the response.

Subsequent to the opening of sealed responses, a responder may withdraw a response only upon showing that an obvious error exists in the response. The showing and request for withdrawal must be made in writing to the director within a reasonable time after the opening of the response and prior to the State's detrimental reliance on the response.

### 9. IDENTIFICATION OF OFFER.

Responses shall indicate brand name, trademark, catalog number, model, etc., as applicable, on the response form for the products offered. If products offered are other than specified, the response should include descriptive literature with illustrations.

### 10. SPECIFICATIONS.

Responses will be held to strict compliance with the specifications. If a response deviates from the specifications, the deviation must be clearly noted and the State reserves the right to reject the response. All specifications are for new items unless otherwise noted in the RFB document. Alternate responses offering lower quality will not be considered. The State reserves the right to reject any or all responses that are not an approved equal.

### 11. MATERIAL DEVIATION.

The responder shall be presumed to be in agreement with these terms and conditions unless it takes specific exception to one or more of the conditions. Submission by the responder of its proposed language shall not be viewed as an exception unless the responder specifically states in the response that its proposed changes are intended to supersede the State's terms and conditions.

**Responders are cautioned that by taking any exception they may be materially deviating from the request for bid. If a responder materially deviates from the general terms and conditions, special terms, conditions and specifications, its response may be rejected.**

A material deviation is an exception to the RFB General or Special Terms and Conditions, and specifications that:

- a. Gives the responder taking the exception a competitive advantage over other responders, or
- b. Gives the State something significantly different from that which the State requested.

## **12. SAMPLES.**

When required, samples are to be furnished at no charge. Except for those destroyed or mutilated in testing, samples will be returned to the responder, at its expense, if requested in the response.

## **13. DELIVERY.**

The responder is to state the delivery time offered in the space provided on Page 2 of the RFB. When delivery time is an important factor, it will be stated in the Special Terms and Conditions, and may be a factor in the award. The State reserves the right to reject a lower-priced response that offers delayed or protracted delivery in favor of a higher priced response offering a more timely delivery. Such responders are obligated to deliver within the quoted lead times. If delivery is not made within that time frame, the State reserves the right to purchase necessary quantities from alternate sources and charge any price premium to the Contract Vendor.

## **14. PRICES.**

Prices shall remain firm for the initial term of the Contract unless otherwise stated in the Special Terms and Conditions. A unit price and a total for the quantity must be stated for each item quoted. In case of an error in the total price, the unit price will prevail. Prices must be quoted in United States currency.

- a. **Transportation.** All prices shall be FOB Destination, prepaid and allowed (with freight included in the price), to the ordering agency's receiving dock or warehouse unless otherwise stated in the Special Terms and Conditions. Price reductions must be passed on immediately to the State whenever they become effective. In those situations in which the "deliver-to" address has no receiving dock or agents, the Contract Vendor must be able to deliver to the person specified on the PO.
- b. **Price Decreases.** During the life of the Contract, any or all temporary price reductions, promotional price offers, introductory pricing, or any other offers or promotions that provide prices lower than or discounts higher than those stated in the Contract, must be given immediately to the entities eligible to purchase from the Contract. Invoices for goods ordered or shipped or services performed during the decrease, or promotion, must immediately reflect such pricing.
- c. **Price Increases.** After the initial term of the Contract, a price increase may be allowed based upon a demonstrable industry wide or regional increase in the Contract Vendor's costs. Documentary evidence must be submitted prior to a proposed price increase. The amount of any increase is not to exceed 10 percent for any commodity/service over the life of the Contract unless approved in writing by the OSP Assistant Director. The exact amount of increase, if any, will be governed by the validity of the documentary evidence submitted and requires the written authorization of the Assistant Director. No price increase will be effective until approved by the Acquisition Management Specialist and set forth in a fully executed amendment to the Contract.

## **15. PAYMENT.**

Minn. Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service whichever is later. Terms requesting payment in less than 30 days will be changed to read "Net 30 days." The ordering entity is not required to pay the Contract Vendor for any goods and/or services provided without a written purchase order or other approved ordering document from the appropriate purchasing entity. In addition, all goods and/or services provided must meet all terms, conditions and specifications of the Contract and the ordering document and be accepted as satisfactory by the ordering entity before payment will be issued.

**Conditions of Payment.** The Contract Vendor under this Contract must be in accordance with the Contract as determined by the sole discretion of the State's Authorized Representative and be in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the State's Office of the Secretary of State.

## **16. CASH DISCOUNT TERMS.**

Discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date of receipt of the invoice, receipt of shipment or date of acceptance, whichever is later. If testing is performed, however, then the date shall be the date of acceptance of the goods or services.

## 17. CONDITION AND PACKING.

Packaging and packing, if not specifically stated in the RFB document or specifications, must conform to the best commercial practices and ensure delivery in good condition. Goods must be marked and packing slips included to permit checking shipments against purchase orders and invoices.

## 18. PUBLICITY.

Any publicity given to the program, publications or services provided resulting from a State contract for goods or services, including but not limited to notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Contract Vendor, or its employees individually or jointly with others, or any subcontractors, shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the Office of State Procurement Acquisition Management Specialist and the Department of Administration Communications Office.

The Contract Vendor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the Department of Administration. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

## 19. TAXES.

**Do not** add sales tax to the prices being offered. Unless otherwise instructed by the State, agencies will pay all applicable taxes directly to the Department of Revenue. Per Department of Revenue Tax Fact Sheet 142, State agencies are required to submit an ST3 form to their suppliers. See <http://www.revenue.state.mn.us>.

If orders are issued by Cooperative Purchasing Venture (CPV) Members, the Contract Vendor should confirm all of the tax requirements with the ordering entity.

## 20. ACTING IN CASES OF DOUBTFUL RESPONSIBILITY.

If the Purchasing Manager, on the basis of available evidence, concludes that a particular vendor appears to be insufficiently responsible to ensure adequate performance, the response may be rejected.

## 21. NONRESPONSIVE OFFERS.

Responses that do not comply with the RFB will be considered nonresponsive and will be rejected.

## 22. COPYRIGHT.

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

## 23. AWARD.

Unless otherwise provided for in the RFB, the award will be made to the lowest responsible vendor meeting the specifications and all terms and conditions. Unless otherwise stated in the Special Terms and Conditions, the State reserves the right to award items separately, by grouping items, by total lot or by issuing multiple awards to more than one responder. The State reserves the right to accept all or part of an offer, to reject all offers, to cancel the solicitation, or to re-issue the solicitation, whichever is in the best interest of the State.

- a. **Low-Tied Responses.** Low-tied responses will be referred to the director of OSP. The director or delegate may enter into negotiation with the low-tied responders when the director deems such action to be in the best interest of the State.
- b. **TG/ED Preference.** Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, Subds. 6 and 7, eligible certified targeted group (TG) businesses will receive a 6 percent preference and certified economically disadvantaged (ED) businesses will receive a 6 percent preference in the evaluation of their response. The preference is applied only to the first \$2,000,000 of the response. At the time of the solicitation opening date and time, eligible TG or ED businesses must be currently certified by the Office of State Procurement. If the business is a manufacturer's representative, the business must have the manufacturer's agreement approved prior to the solicitation opening date and time.

To verify TG/ED certification, refer to the Office of State Procurement's web site at [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us) under "Vendor Information, Directory of Certified TG/ED Vendors."

To verify TG eligibility for preference, refer to the Office of State Procurement's web site under "Vendor Information, Targeted Groups Eligible for Preference in State Purchasing" or call the OSP HelpLine at 651.296.2600.

TG/ED VENDOR? YES \_\_\_\_\_ NO \_\_\_\_\_

- c. **Veteran-Owned Small Business Preference.** Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, subd. 6a, the Commissioner of Administration will award a 6% preference in the amount bid on state procurement to certified small businesses that are majority owned and operated by veterans.

A small business qualifies for the “veteran-owned” preference when it meets one of the following requirements. 1) The business has been certified by the Office of State Procurement as being a veteran-owned or service-disabled veteran-owned small business. 2) The principal place of business is in Minnesota AND the United States Department of Veterans Affairs verifies the business as being a veteran-owned or service-disabled veteran-owned small business under Public Law 109-461 and Code of Federal Regulations, title 38, part 74 (Supported By Documentation). See Minn. Stat. § 16C.19(d).

Submit the appropriate documentation with the solicitation response to claim the veteran-owned preference. Statutory requirements and documentation must be met by the solicitation response due date and time to be awarded the preference. The preference applies only to the first \$2,000,000 of a solicitation response.

- d. **Reciprocal Preference.** In accordance with Minn. Stat. §16C.06, subd 7, a Resident Vendor shall be allowed a preference over a non-resident vendor from a state that gives or requires a preference to vendors from that state. The preference shall be equal to the preference given or required by the state of the non-resident vendor. If you wish to be considered a Minnesota Resident vendor you must claim that by filling out the Resident Vendor Form included in this solicitation and include it in your response.

#### **24. COMPETITION IN RESPONDING.**

The State desires and encourages free and open competition among responders. Whenever and wherever possible, the State’s specifications and the General Terms and Conditions will be designed to accomplish this objective, consistent with the necessity to satisfy the State’s needs and while obtaining best value. Any evidence of collusion among responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action. Suggestions from responders regarding the requirements of the RFB procedures are welcome and will be given careful consideration.

#### **25. GOVERNING LAW.**

The RFB and the Contract will be construed in accordance with and performance governed by the laws of the State of Minnesota. Except to the extent that the provisions of the Contract are clearly inconsistent therewith, the Contract will be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. To the extent the Contract entails delivery or performance of services, the services will be deemed “goods” within the meaning of the UCC, except when to deem such services as “goods” is unreasonable.

#### **26. LAWS AND REGULATIONS.**

Any and all services, articles or equipment offered and furnished must comply fully with all local, State, and federal laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Minnesota Secretary of State’s Office.

#### **27. JURISDICTION AND VENUE.**

The RFB and any ensuing Contract, its amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of the Contract or breach thereof shall be in the State or federal court with competent jurisdiction in Ramsey County, Minnesota. By submitting a response to this Request for Bid a Responder voluntarily agrees to be subject to the jurisdiction of Minnesota for all proceedings arising out of this RFB, any ensuing Contract, or any breach thereof.

#### **28. SEVERABILITY.**

If any provision of the Contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the State and Contract Vendor will be relieved of all obligations arising under the provision; if the remainder of the Contract is capable of performance, it will not be affected by the declaration or finding and will be fully performed.

#### **29. SURVIVABILITY.**

The following rights and duties of the State and responder will survive the expiration or cancellation of the resulting Contract(s). These rights and duties include, but are not limited to the paragraphs on Indemnification and Hold Harmless, State Audits, Government Data Practices, Governing Law, Jurisdiction and Venue, Intellectual Property Indemnification,

Publicity and Admin Fees. Software licenses, warranty, maintenance agreements and service agreements that were entered into under the terms and conditions of the Agreement shall survive the expiration or termination of this Agreement.

### **30. ASSIGNMENT.**

The Contract Vendor shall not sell, transfer, assign, or otherwise dispose of the Contract or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. Such consent shall not be unreasonably withheld. The Contract Vendor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of the Contract. Failure to do so may result in the Contract Vendor being held in default. This consent requirement includes reassignment of the Contract due to a change in ownership, merger, or acquisition of the Contract Vendor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contract Vendor's right to assign the Contract to corporations to provide some of the services hereunder. Notwithstanding the foregoing acknowledgment, the Contract Vendor shall remain solely liable for all performance required and provided under the terms and conditions of the Contract.

### **31. CONFLICT OF TERMS.**

In the event of any conflict between the General Terms and Conditions, and any Special Terms and Conditions, the Special Terms and Conditions govern.

### **32. PURCHASE ORDERS.**

The State requires that there will be no minimum order requirements or charges to process an individual purchase order unless otherwise stated in the special terms. The PO number must appear on all documents (e.g., invoices, packing slips, etc.).

### **33. USAGE REPORT.**

As per the requirements of the RFB, Contract Vendors are required to furnish usage data to the Buyer. Unless otherwise specified in the Special Terms and Conditions, a report on Contract usage must consist of the total dollars expended by the State and other entities.

### **34. CANCELLATION OF THE CONTRACT.**

The Contract may be cancelled by the State or the commissioner of Administration at any time, with or without cause, upon 30 days' written notice to the Contract Vendor. In the event the Contract Vendor is in default, the Contract is subject to immediate cancellation to the extent allowable by applicable law. In the event of cancellation, the Contract Vendor shall be entitled to payment, determined on a pro rata basis, for products, work or services satisfactorily received, performed and accepted.

### **35. FORCE MAJEURE.**

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

### **36. COPYRIGHTED MATERIAL WAIVER.**

The State reserves the right to use, reproduce, and publish responses in any manner necessary for State agencies and local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that a response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and/or distribution of the contents of its response and agrees to indemnify, protect, save and hold the State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the State in the defense of any such action.

### **37. INSURANCE.**

Prior to execution of the Contract, if specified in the Special Terms and Conditions, the successful Responder will be required to provide a copy of a Certificate of Insurance, including the workers' compensation insurance coverage requirements of Minn. Stat. § 176.181, subd. 2, and other coverages per the insurance requirements outlined in the solicitation.

### **38. STATE AUDITS.**

(Minn. Stat. § 16C.05, subd. 5). The books, records, documents, and accounting procedures and practices of the Contract Vendor or other party, that are relevant to the Contract or transaction are subject to examination by the contracting agency and either the Legislative Auditor or the State Auditor as appropriate for a minimum of six years after the end of the Contract or transaction.

The State reserves the right to authorize delegate(s) to audit this contract and transactions.

### **39. DISPUTE RESOLUTION PROCEDURES.**

Any issue a responder has with the RFB document, which includes, but is not limited to, the terms, conditions, and specifications, must be submitted in writing to the AMS prior to the solicitation opening due date and time. Any issue a responder has with the Contract award must be submitted in writing to the AMS within five working days from the time the intent to award or the Contract award date is made public. This public notice may be made by any of the following methods: notification by letter or email, posted on the on the OSP website, [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us), or electronic notification by our electronic procurement system, SWIFT. The State will respond to any protest received that follows the above procedure. For those protests that meet the above submission requirements, the appeal process is, in sequence: the responsible AMS, the OSP Assistant Director, and the OSP Director.

### **40. NOTICE TO RESPONDERS.**

Pursuant to Minn. Stat. § 270C.65, subd. 3, Contract Vendors are required to provide their Federal Employer Identification Number or Social Security Number. This information may be used in the enforcement of federal and State tax laws. Supplying these numbers could result in action to require a Contract Vendor to file tax returns and pay delinquent tax liabilities. These numbers will be available to federal and State tax authorities and State personnel involved in the payment of State obligations.

### **41. HAZARDOUS SUBSTANCES.**

To the extent that the goods to be supplied to the State by the Contract Vendor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Contract Vendor must provide the State with Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

### **42. RISK OF LOSS OR DAMAGE.**

The State is relieved of all risks of loss or damage to the goods and/or equipment during periods of transportation, and installation by the Contract Vendor and in the possession of the Contract Vendor or their authorized agent.

### **43. INDEMNIFICATION, HOLD HARMLESS, AND LIMITATION OF LIABILITY.**

The Contract Vendor shall indemnify, protect, save and hold harmless the State, its representatives and employees, from any and all claims or causes of action, including all legal fees incurred by the State arising from the performance of the Contract by the Contract Vendor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contract Vendor may have with the State's failure to fulfill its obligations pursuant to the Contract.

For clarification and not as a limitation, the Contract Vendor hereby expressly extends, in addition to the other terms, conditions and specifications of the Contract, the foregoing defense and indemnification obligations to Cooperative Purchasing Venture (CPV) Members, including Board of Trustees of the Minnesota State Colleges and Universities, in addition to Agency as defined in Minn. Stat. 16.C.02, in addition to the legislative and judicial branches and constitutional offices of state government.

The State agrees that Contractor, its principals, members and employees shall not be liable to the State for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the goods provided or services performed hereunder for an aggregate amount in excess of \$10,000,000 or the contract amount, whichever is greater. This limitation of liability does not apply to damages for personal injury or death, or to Contractor's obligation to indemnify, defend and hold the State harmless against intellectual property infringement claims under paragraphs titled and included in this Agreement. This indemnification does not include liabilities caused by the State's gross negligence or intentional wrong doing of the State.

### **44. DEFAULT.**

A State purchase order constitutes a binding Contract. All commodities and/or services furnished will be subject to inspection and acceptance by the ordering entity after delivery. No substitutions or cancellations are permitted without written approval of the State contracting agency. Back orders, failure to meet delivery requirements, or failures to meet specifications in the purchase order and/or the Contract authorizes the ordering entity to cancel the Contract or purchase order, or any portion of it, purchase elsewhere, and charge the full increase in cost and administrative handling to the defaulting Contract Vendor. In the event of default, the State reserves the right to pursue any other remedy available by



law. A Contract Vendor may be removed from the vendors list, suspended or debarred from receiving a Contract for failure to comply with terms and conditions of the Contract, or for failure to pay the State for the cost incurred on the defaulted Contract.

**45. CERTIFICATION REGARDING FEDERAL DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION.**

A contract resulting from this solicitation may be a covered transaction for purposes of federal debarment and suspension regulations. By submission of its response, the responder certifies that neither it, nor its principals or subcontractors, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The responder further certifies that it will include this provision in any subcontracts resulting from this solicitation. If the responder knowingly renders an erroneous certification, in addition to remedies available to the Minnesota Department of Administration, the Federal Government may pursue available remedies, including but not limited to suspension or debarment.

**46. NONCOLLUSION CERTIFICATIONS.**

The responder shall complete and submit the Affidavit of Noncollusion.

**47. DISPOSITION OF RESPONSES.**

All materials submitted in response to this RFB will become property of the State and will become public record after the evaluation process is completed and an award decision made. If the responder submits information in response to this RFB that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the responder must:

- a. clearly mark all trade secret materials in its response at the time of the response is submitted;
- b. include a statement with its response justifying the trade secret designation for each item; and,
- c. 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 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 the RFB, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State. The State is required to keep all the basic documents related to its contracts, including responses to RFBs, for a minimum of seven years.

The State will not consider the prices submitted by the responder to be trade secret materials.

**48. GOVERNMENT DATA PRACTICES.**

The Contract Vendor and the State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the State contracting party is part of the judicial branch, 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) as it applies to all data provided by the State to the Contract Vendor and all data provided to the State by the Contract Vendor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contract Vendor in accordance with this Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contract Vendor receives a request to release the data referred to in this article, the Contract Vendor must immediately notify the State. The State will give the Contract Vendor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contract Vendor or the State.

The Contract Vendor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Contract. In the event that the Contract Vendor subcontracts any or all of the work to be performed under the Contract, the Contract Vendor shall retain responsibility under the terms of this paragraph for such work.

**49. AMERICANS WITH DISABILITIES ACT (ADA).**

Products provided under the Contract must comply with the requirements of the Americans with Disabilities Act (ADA). The Contract Vendor's catalog and other marketing materials utilized to offer products under the Contract must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contract Vendor agrees that the customer can assume the product meets or exceeds the ADA requirements.

## 50. HUMAN RIGHTS/AFFIRMATIVE ACTION.

The State requires affirmative action compliance by its Contract Vendors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

- a. Covered contracts and Contract Vendors. One-time acquisitions, or a contract for a predetermined amount of goods and/or services, where the amount of your response is in excess of \$100,000 requires completion of the Affirmative Action Certification page. If the solicitation is for a contract for an indeterminate amount of goods and/or services, and the State estimated total value of the contract exceeds \$100,000 whether it will be a multiple award contract or not, you must complete the Affirmative Action Certification page. If the contract dollar amount or the State estimated total contract amount exceeds \$100,000 and the Contract Vendor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, the Contract Vendor must comply with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600. A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600 that had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months must have a certificate of compliance issued by the commissioner of the Department of Human Rights (certificate of compliance). A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 that did not have more than 40 full-time employees on a single working day during the previous 12 months within Minnesota but that did have more than 40 full-time employees in the state where it has its principal place of business and that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.
- b. Minn. Stat. § 363A.36, subd. 1 requires the Contract Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of the Department of Human Rights (commissioner) as indicated by a certificate of compliance. Minn. Stat. § 363A.36 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.
- c. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contract Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552-5000.3559.
- d. Disabled Workers. Minn. R. 5000.3550 provides the Contract Vendor must comply with the following affirmative action requirements for disabled workers.

### AFFIRMATIVE ACTION FOR DISABLED WORKERS

- (a) 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.
- (b) 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.
- (c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (d) 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.
- (e) The contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat.

§ 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

- e. Consequences. The consequences of a Contract Vendor'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 the Contract by the commissioner or the State.
- f. Certification. The Contract Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

#### **51. REQUEST FOR CLARIFICATION.**

If a responder discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in the RFB, it shall immediately notify the Acquisition Management Specialist in writing, as specified in the introduction, of such error and request modification or clarification of the document.

Responders are cautioned that any activity or communication with a State employee or officer, or a member of the Evaluation Team, regarding this Solicitation's contents or process, is strictly prohibited and may, as a result, have its response rejected. Any communication regarding this Solicitation, its content or process, must be directed to the Acquisition Management Specialist listed in the Solicitation documents.

#### **52. ENTIRE AGREEMENT.**

A written Contract (including the contents of the RFB and the Contract Vendor's response incorporated therein by reference) and any written addenda thereto constitute the entire agreement of the parties.

#### **53. STATE REQUIREMENTS FOR ENERGY STAR COMPLIANT PRODUCTS.**

The Contract Vendor is responsible to present information to State agency and Cooperative Purchasing Venture (CPV) customers regarding whether a product is in compliance with the Energy Star Standards. The Contract Vendor's catalog and other marketing materials utilized to offer products under the Contract must state when a product is not in compliance with the Energy Star Standards. If any descriptive marketing materials are silent as to these requirements, the Contract Vendor agrees that the customer can assume the product meets or exceeds the Energy Star Standards.

#### **54. STATE AGENCY CONTRACT USE.**

The State intends to use the RFB and resulting Contract to meet its needs for goods and services purchased under the authority of the commissioner of Administration. An exception will be made when the commissioner of Administration or authorized delegate determines that the State will achieve its "best value" by utilizing alternative procurement methods as specified in Minn. Stat. Ch. 16C or other authorizing law.

The Contract must be used by State agencies unless a specific exception is granted by the Acquisition Management Specialist or authorized delegate unless otherwise provided for in the Special Terms and Conditions.

#### **55. 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 Contract Vendor is unable or potentially unable to render impartial assistance or advice to the State;
- the Contract Vendor's objectivity in performing the work is or might be otherwise impaired; or
- the Contract Vendor has an unfair competitive advantage.

The Contract Vendor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Office of State Procurement that shall include a description of the action the Contract Vendor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contract Vendor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the AMS, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contract Vendor," and "AMS" modified appropriately to preserve the State's rights.

**56. AMENDMENTS.**

The State reserves the right to make changes to the Contract, when mutually agreed to by the State of Minnesota and the Contract Vendor, if the changes are within the general scope of the Contract. The changes to the Contract will be made by Contract amendment. An approved Contract amendment means one approved by the authorized signatories of the Contract Vendor and the State as required by law.

**57. ELECTRONIC FUNDS TRANSFER (EFT) PAYMENT METHOD AND STRUCTURE.**

In accordance with Minn. Stat. § 16A.40 the responder receiving the award of this Solicitation may be required to provide their bank routing information to the Department of Minnesota Management and Budget to enable payments to be made through EFT.

**58. OWNERSHIP.**

- a. Ownership of Documents/Copyright. Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contract Vendor in the performance of its obligations under the Contract and paid for by the State shall be the exclusive property of the State and all such material shall be remitted to the State by the Contract Vendor upon completion, termination or cancellation of the Contract. The Contract Vendor shall not use, willingly allow or cause to allow such material to be used for any purpose other than performance of the Contract Vendor's obligations under this Contract without the prior written consent of the State.
- b. Rights, Title and Interest. All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the said documents that the Contract Vendor conceives or originates, either individually or jointly with others, which arises out of the performance of the Contract, will be the property of the State and are, by the Contract, assigned to the State along with ownership of any and all copyrights in the copyrightable material. The Contract Vendor also agrees, upon the request of the State, to execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contract Vendor for the State in performance of the Contract shall be considered "works for hire" as defined in the U.S. Copyright Act.
- c. Notwithstanding the above, the State will not own any of the Contract Vendor's pre-existing intellectual property that was created prior to the Contract and which the State did not pay the Contract Vendor to create. The Contract Vendor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for Contractor's pre-existing intellectual property that is contained in the products, materials, equipment or services that are purchased through this Contract.

**59. PUBLIC INFORMATION.**

Once the information contained in the responses is deemed public information, interested parties may request to obtain the public information. You can call 651.201.2413 between the hours of 8:00 a.m. to 4:30 p.m. to arrange this.

**60. INTELLECTUAL PROPERTY INDEMNIFICATION.**

The Contract Vendor warrants that any materials or products provided or produced by the Contract Vendor or utilized by the Contract Vendor in the performance of this Contract will not infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against the State, the State shall promptly notify the Contract Vendor. The Contract Vendor, at its own expense, shall indemnify; defend to the extent permitted by the Minnesota Attorney General's Office, and hold harmless the State against any loss, cost, expense, or liability (including legal fees) arising out of such a claim, whether or not such claim is successful against the State.

If such a claim has occurred, or in the Contract Vendor's opinion is likely to occur, the Contract Vendor shall either procure for the State the right to continue using the materials or products or replacement or modified materials or products. If an option satisfactory to the State is not reasonably available, the State shall return the materials or products to the Contract Vendor, upon written request of the Contract Vendor and at the Contract Vendor's expense. This remedy is in addition to any other remedy provided by law.

**61. ANTITRUST.**

The Contract Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with the Contract resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State.

**62. PRODUCTS CONTAINING CERTAIN TYPES OF POLYBROMINATED DIPHENYL ETHER BANNED.**

By signing and submitting a response to this solicitation, Contractor/Responder certifies that they have read and will comply with Minn. Stat. § 325E.385-325E.388).

### **63. COAL TAR SEALANT USE AND SALE PROHIBITED.**

By submitting a response to this solicitation, the Responder certifies that coal tar sealant products are not included in its response. "Coal tar sealant product" means a surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) number 65996-93-2, 65996-89-6, or 8007-45-2. Coal tar sealants must not be used or sold for application on asphalt-paved surfaces. See Minn. Stat. § 116.202.

### **64. E-VERIFY CERTIFICATION.**

By submission of a response for services in excess of \$50,000, the responder certifies that as of the date of services performed on behalf of the State, the responder 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. This is required by Minnesota Statutes Section 16C.075. In the event of contract award, the contract vendor shall be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available on our OSP website. All subcontractor certifications must be kept on file with the contract vendor and made available to the State upon request.

### **65. PREVAILING WAGE.**

If this solicitation involves a project which includes erection, construction, remodeling, or repairing of a public building or other public work financed in whole or part by State funds, then pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties. Applicability: The prevailing wage applies to a contract or work under a contract, under which: 1) only one trade or occupation is required to complete it and the project is greater than \$2,500; or 2) the estimated total cost of completing the project is greater than \$25,000. For questions regarding the prevailing wage laws, contact the Department of Labor and Industry at 651.284.5091.

### **66. PRODUCTS CONTAINING TRICLOSAN BANNED.**

By signing and submitting a response to this solicitation, Contractor/Responder certifies that their products offered and sold under a state contract do not contain triclosan pursuant to the State Sustainability Plan that is required by Executive Order 11-13 and detailed in the Updated Model Sustainability Plan Targets adopted by the Inter-Agency Pollution Prevention Advisory Team on February 28, 2013.

### **67. IT ACCESSIBILITY STANDARDS.**

(To the extent applicable) The State of Minnesota (Executive branch state agencies) has developed IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at:

[http://www.mmd.admin.state.mn.us/pdf/accessibility\\_standard.pdf](http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf)

### **68. NONVISUAL ACCESS STANDARDS.**

(To extent required by law) Pursuant to Minn. Stat. §16C.145, the Contract Vendor shall comply with the following nonvisual technology access standards:

- a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

### **69. 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 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where it has its primary place of business. 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](mailto:compliance.MDHR@state.mn.us).

**70. CLEANER FUEL VEHICLES.**

(When applicable) It is the intention of the State of Minnesota to begin purchasing electric vehicles, plug-in hybrid electric vehicles, neighborhood electric vehicles, and natural gas vehicles if the total life-cycle cost of ownership is less than or comparable to that of gasoline-powered vehicles. It is the intention of the State to purchase electric vehicles, plug-in hybrid electric vehicles, and neighborhood electric vehicles, and natural gas vehicles whenever practicable after these conditions have been met and as fleet needs dictate for at least five years after these conditions have been met.

**71. STATE'S NON-INDEMNIFICATION.**

Nothing herein, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Contract Vendor, Contract Vendor's subcontractors, or Contract Vendor's agents. This shall extend to all agreements related to the subject matter of this RFB, and to all terms subsequently added, without regard to order of precedence.

**72. CERTIFICATION OF NONDISCRIMINATION (In accordance with Minn. Stat. § 16C.053)**

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

**73. SUBCONTRACTOR REPORTING.**

The State of Minnesota is committed to diversity and inclusion in public procurement. If the total value of your contract may exceed \$500,000, including all extension options, you must track and report, on a quarterly basis, the amount you spend with diverse small businesses. When this applies, you will be provided free access to a portal for this purpose, and the requirement will continue as long as the contract is in effect.

## Trade Secret Information Form

Under Minnesota's Data Practices Act, data submitted in a response becomes public upon completion of the evaluation process and negotiations are complete, or upon completion of the selection process for a solicitation. However, "trade secret information" as defined in Minn. Stat. § 13.37, subd. 1(b), cannot be disclosed to the public. While the majority of data submitted in a response is not trade secret information, the following form is needed to assist the State in making appropriate determinations about the release of data provided in a response.

### All responders must select one of the following boxes:

- My response **does not** contain "trade secret information." I understand that my entire response will become public record in accordance with Minn. Stat. § 13.591.
- My response **does** contain trade secret information because it contains data that:
  1. is a formula, pattern, compilation, program, device, method, technique or process; **and**
  2. is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy; **and**
  3. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

### Complete only if trade secret status is asserted:

I am claiming that aspects of my response contain trade secret information. I have completed the following:

- I have clearly marked and placed any data I claim to be "trade secret information" in a separate envelope **and** I am attaching an explanation justifying the trade secret designation, including, but not limited to providing explanation of all three items, numbers 1-3 above.

**Please note that failure to attach an explanation may result in a determination that the data does not meet the statutory trade secret definition. All data that does not meet the definition of trade secret as defined by Minn. Stat. §13.37, Subd. 1(b) will become public in accordance with Minn. Stat. §13.591. The State reserves its right to make its own determination of Responder's Trade Secret Materials.**

By submitting this response, responder agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's withholding of data based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

**Only** information properly identified utilizing this form will be eligible for Trade Secret designation. This form must accompany any documentation that is being submitted for Trade Secret. This includes but is not limited to any material that may be submitted as part of the solicitation response, or in relation to a subsequent Contract. Information labeled "confidential," "proprietary," or labeled with similar tags with regard to limiting the State's disclosure will **not** be eligible for trade secret designation unless the form provided in the solicitation is properly completed and submitted as a cover page to the information, and it meets the statutory definition of a trade secret. By submitting a response you agree that the information submitted that does not follow the trade secret process defined herein and does not meet the statutory definition of trade secret may be released by the State without prior notification to the responder and/or the Contract Vendor.

**STATE OF MINNESOTA  
MINNESOTA STATE LOTTERY  
PURCHASING DEPARTMENT**

**Affidavit of Non-Collusion**

I hereby 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 response 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 vendor designed to limit fair or open competition;
3. That the contents of the RFP response have not been communicated by the responder or its employees or agents to any person not an employee or agent of the responder and will not be communicated to any such persons prior to the official opening of the responses; and
4. I certify that the statements in this affidavit are true and accurate.

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**Notarize below:**

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_



**STATE OF MINNESOTA  
MINNESOTA STATE LOTTERY  
PURCHASING DEPARTMENT**

**Service and Delivery**

Service and delivery are important requirements for all State Contracts. The successful responder will be expected to ship all orders within the time specified in its response or, in the case of unanticipated problems causing a delay, notify the agency of the problem and when the shipment will be made. All requests for information from State agencies will be answered promptly. A copy of all correspondence to State agencies shall be sent to Acquisitions, Office of State Procurement, 112 Administration Building, St. Paul, MN 55155.

**Subsequent Contract Revisions.** No verbal or written instructions from State agencies or officials to change any provision of the resulting Contract shall be accepted by the Contract Vendor without the approval of the Acquisition Management Specialist (AMS). The Contract Vendor shall report any such requests to the AMS who will issue approval or denial in writing.

**Contact Person for Orders:**

Name: _____	Title _____
Telephone Number: _____	Fax Number: _____
Toll Free Number: _____	Email: _____

**Contact Person to Expedite Orders (if different from above):**

Name: _____	Title _____
Telephone Number: _____	Fax Number: _____
Toll Free Number: _____	Email: _____

**Order Address:**

Street/PO Box: _____	Email: _____
City/State/Zip: _____	Fax Number: _____
Telephone Number: _____	Toll Free Number: _____

**Remit-To Address:**

Street/PO Box: _____	Email: _____
City/State/Zip: _____	Fax Number: _____
Telephone Number: _____	Toll Free Number: _____

**STATE OF MINNESOTA  
MINNESOTA STATE LOTTERY  
PURCHASING DEPARTMENT**

**Taxpayer/Vendor Identification**

The Contract Vendor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number to federal and State tax agencies and State personnel involved in the payment of State obligations. These identification numbers may be used in the enforcement of federal and State tax laws which could result in action requiring the Contract Vendor to file tax returns and pay delinquent tax liabilities, if any (Minn. Stat. § 270C.65).

Firm Name: \_\_\_\_\_

Address Line 1 \_\_\_\_\_

Address Line 2: \_\_\_\_\_

Address Line 3: \_\_\_\_\_

Minnesota SWIFT Vendor Registration Number: \_\_\_\_\_

If you are not registered as a vendor to the State in the SWIFT Procurement System, you must register online on our [website](http://www.mmb.state.mn.us/vendorresources) at <http://www.mmb.state.mn.us/vendorresources> . (Note: If approved, you will receive your vendor number approximately two business days after you register.)

Are you a sole proprietorship? Yes  No

Are you an independent contractor? Yes  No

**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.

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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.

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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.**

**State of Minnesota  
Veteran-Owned Preference Form**

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

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

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

**or**

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

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

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**Claim the Preference**

By signing below I confirm that:

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

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

**or**

- My company's principal place of business is in Minnesota and the United States Department of Veteran's Affairs verifies my company as being a veteran-owned or service-disabled veteran-owned small business.

Name of company \_\_\_\_\_ Date: \_\_\_\_\_

Authorized signature \_\_\_\_\_ Telephone: \_\_\_\_\_

Printed name: \_\_\_\_\_ Title: \_\_\_\_\_

**Sign and return this form with your solicitation response to claim the veteran-owned preference.**

## SPECIAL TERMS, CONDITIONS, AND SPECIFICATIONS

### PREFACE STATEMENT.

The information contained below describes the special terms, conditions, and specifications applicable to the Request for Bid (RFB) and subsequent contract, and is in addition to the General Terms and Conditions.

### PURPOSE AND BACKGROUND

#### 1. PURPOSE.

The purpose of this solicitation is to receive responses and award a purchase order to a vendor or vendors to provide lodging for the Minnesota State Lottery (MSL) Marketing and Regional Staff. MSL staff will be working at WE Fest 2019 from July 30, 2019 through August 4, 2019.

### VENDOR CAPABILITIES

#### 2. \*REQUIRED CAPABILITIES.

The Contract Vendor must be able to provide the products and/or the services called for in the solicitation document and, if included therein. The Hotel shall be certain to verify that the individual is a MSL employee and have the individual provide identification, such as a valid Minnesota Driver's License or Minnesota Identification Card with a Minnesota State Lottery business card or a Minnesota State Lottery issued ID.

### CONTRACT VALUE

#### 3. ESTIMATED AMOUNT.

The estimated total dollar value of the Contract for **one year** is \$20,000 to \$ 30,000. However, this shall not be construed as either the minimum or maximum amount. It shall also be understood and accepted by the responder that any quantities shown in this RFB are estimated quantities only and impose no obligation upon the State either minimum or maximum.

#### 4. FACSIMILE OR EMAIL RESPONSES.

Facsimile or e-mail responses will be considered.

**The MSL is not responsible for transmission failures due to a bidder submitting their response via fax or email. LATE RESPONSES WILL NOT BE CONSIDERED!**

#### 5. QUESTIONS.

Deadline for all questions: **Friday, March 8, 2019, by 12pm (NOON) CT.**

All questions MUST be submitted **in writing** via fax or email by the question deadline date, to the attention of Kolby S., Buyer – Fax: 651-635-8188 and / or Email: [purchasing@mnlottery.com](mailto:purchasing@mnlottery.com) and MUST include **'RE-BID WE Fest 2019 Lodging RFB** in the 'Subject' line. Responses to questions will be posted by addendum on the MSL Vendors web page: <https://www.mnlottery.com/vendors/> The MSL is not responsible for transmission failures due to a bidder submitting their question via fax or email or MSL responding with an email or fax notification.

*NOTE: It is the responsibility of all bidding vendors to monitor the MSL 'Vendors' web page for addendums, updates, questions/answers, etc. for this RFB, through the bid due date deadline.*

#### 6. PRICE – See attached price form (Exhibit A).

#### 7. PRICING OFFERED IN RESPONSE.

Prices listed in your response to this solicitation must take into consideration all inherent costs of providing the requested goods and/or services. The responder agrees to pay any and all fees. The state will not pay any additional charges beyond the price(s) listed in the response, unless otherwise provided for by law or expressly allowed by the terms of the solicitation.

#### 8. VENDOR TO CHARGE SALES TAX

The awarded Vendor will charge sales tax to the MSL against their purchase orders for the goods or services offered in their bid response. The State's Direct Pay permit will not apply.

#### 9. CUSTOMER RESPONSIBILITY

The customer will be responsible for its own behavior and the results thereof. The customer's liability is governed by the Minnesota Tort Claims act, Minn. Stat. § 3.736.

## **10. BILLING**

All charges for rooms & taxes will be paid after MSL purchase order is process and upon receipt of approved invoice. Invoices ONLY shall be emailed to [papi@mnlottery.com](mailto:papi@mnlottery.com) by the vendor after receipt of MSL purchase order. Each invoice shall be itemized to include the name of occupying individual or staff # as listed on the price rate form, room number date(s) of lodging, and detailed costs and taxes. All question regarding any billing ONLY should be directed to MSL via email to [papi@mnlottery.com](mailto:papi@mnlottery.com).

Only charges for the guest room rental (room & applicable taxes) will be paid for by the MSL. All other charges incurred by the customer (e.g., room service, food and beverage charges, phone charges outside the local phone calls) shall be the sole responsibility of the customer reserving the room. The awarded Vendor shall be responsible for billing the customer for any charges outside of the guest room rental charge.

## **11. PARKING**

The bidding Vendor must provide secure parking and must have ample room for attendees to park on-site **free** of charge.

## **12. AMERICANS WITH DISABILITIES**

The bidding Vendor represent and the MSL acknowledges that in accordance with the compliance dates established or required under Title III of the Americans with Disabilities Act (ADA) and the regulation promulgated thereunder, the facilities being used by the Group under this agreement, has at least one (1) guest room that is in compliance with the public accommodation requirements of the ADA.

## **13. GUARANTEES**

The bidding Vendor, if awarded the contract, agrees to provide the following guarantees:

- a. The Vendor shall guarantee that all rooms shall be held for the entire day 11:59:59 pm of the day of reserved arrival) for late arrival.
- b. The Vendor shall be able to block and hold up to 20 rooms, 150 days in advance for the 2019 We Fest lodging.
- c. The Vendor shall provide secure, quiet and clean rooms. The rooms will be vacuumed, all furniture dusted and bathroom floor and fixtures must be clean. An individual not satisfied with the hotel accommodations can go elsewhere without charges incurred. The MSL requires continental breakfast and /or free restaurant breakfast coupon. The MSL requires rooms with a microwave and mini-fridge available for the duration of the stay.
- d. The Vendor shall provide local phone call from the guest room at no charge. Any other calls shall be the responsibility of the individual residing in the guest room. The MSL shall bear no responsibility for any phone calls.
- e. The Vendor shall provide alternate equivalent lodging/hotel arrangements as identifies in (d.) above, if they cannot accommodate request at the submitted rate at their facility, and will pay any difference in the rates.
- f. Individuals making their own reservation or arriving unscheduled must provide the hotel with personal payment when checking out, unless arrangements are made with the MSL prior to the individual checking out of the hotel (ie. MSL Purchase Order for Direct Billing).
- g. The MSL requires distance from the hotel to the Soo Pass Ranch **must not** exceed 10 miles round trip.

## **14. CONTRACTING WITH THE SELECTED VENDOR**

The bidding Vendor is not guaranteed a certain number of guest rooms per night, nor does the existence of a Contract Guarantee any particular volume or frequency of guest rooms needed per night.

## **15. VENDOR TERMS AND CONDITIONS.**

The Standard Terms shall not be construed to deprive the Lottery or the State of Minnesota of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability afforded to the Lottery or the State of Minnesota by Minnesota law.

## **16. FOREIGN OUTSOURCING OF WORK.**

The State prefers that all services under this Contract shall be performed within the borders of the United States. This provision also applies to work performed by subcontractors at all levels. The State may evaluate risk based on the responder's response to the questions on the Location of Service Disclosure and Certification Form attached herein to the RFB. In the event the State determines services proposed outside of the United States present risk to the State, the State reserves the right to reject the response.

## **17. AWARD OF RELATED CONTRACTS.**

In the event the State undertakes or awards supplemental contracts for work related to the Contract or any portion thereof, the Contract Vendor shall cooperate fully with all other Contract Vendors and the State in all such cases. All contracts between subcontractors and the Contract Vendor shall include a provision requiring compliance with this section.

**18. JOINT VENTURES.**

The State does not preclude joint ventures among groups of vendors when responding to the solicitation. However, one vendor must submit a response on behalf of all the others in the group. **The vendor that submits the response will be considered legally responsible for the response (and the Contract, if awarded).**

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- Guest Room Rental Charges per Night per person for Single Occupancy through the WE Fest event, with an option for additional person(s) per room, are ESTIMATES ONLY and IS NOT a guarantee. Additional or fewer room/night may be required. **Estimates list of approximate number of MSL staff and approximate dates of stay – NOT A GUARANTEE**

	7/30	7/31	8/1	8/2	8/3
Staff 1	x	X	X	X	X
Staff 2	X	X	X	X	X
Staff 3	X	X	X	X	X
Staff 4	X	X	X	X	X
Staff 5		X	X	X	X
Staff 6		X	X	X	X
Staff 7		X	X	X	X
Staff 8		X	X	X	X
Staff 9		X	X	X	X
Staff 10		X	X	X	X
Staff 11		X	X	X	X
Staff 12		X	X	X	X
Staff 13		X	X	X	X
Staff 14		X	X	X	X
Staff 15		X	X	X	X
Staff 16		X	X	X	X
Staff 17		X	X	X	X
Staff 18		X	X	X	X
Staff 19		X	X	X	X
Staff 20		X	x	X	x
<b>Estimated total rooms per night</b>	<b>4</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>

The above room schedules gives the estimated number of staff and rooms per day that must be held by the hotel

Standard room rate: \$\_\_\_\_\_ per night. Do not include tax at this time.

Please note the per person rate for additional guest(s) in one room: \$\_\_\_\_\_ per person.

All room reservation must be guaranteed for late arrival. The charges (room & tax only) for all the rooms are to be paid by the MSL after receipt of a MSL purchase order and upon receipt of approved invoice. The MSL purchase order and final room list will be the agreement between hotel and MSL for applicable charges. Each occupant is responsible for their own incidental charges, with payment to be accepted in the form of a major credit card, cash or check.

The Minnesota State Lottery, a MN State Agency, is prohibited from signing any non-state contract/agreements.

Hotel Name: \_\_\_\_\_ Location Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Direct Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Printed Name of Person Completing/Signing this Form: \_\_\_\_\_

Signature of Person Completing/Signing this Form: \_\_\_\_\_