

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
HOMELAND SECURITY AND EMERGENCY MANAGEMENT
REQUEST FOR PROPOSALS

Hazardous Materials Regional Response Team Program

Project Overview

The Minnesota Department of Public Safety is seeking proposals from qualified public and non-public entities to provide services as a component of the Hazardous Materials Regional Response Team Program (Minnesota Rules, chapter 7514.1500, subpart 1). Primary Response Areas for this program have been established and are identified in this request for proposals (RFP).

This solicitation seeks proposals from entities interested in serving as a Hazardous Materials Emergency Response Team and/or Chemical Assessment Team in any of the Primary Response Areas identified. Funding available for the current state fiscal year will permit the awarding of contracts to a minimum of one (1) emergency response team which will also function as a chemical assessment team, and up to ten (10) additional chemical assessment team contracts are anticipated to be awarded to entities serving solely as chemical assessment teams. Additional contracts may be awarded. Additional requests for proposals may also be issued at a later date in order to meet the needs of the team program (Minnesota Rules, chapter 7514,1500, subpart 1).

This request for proposals does not obligate the state to complete the proposed project. The state reserves the right to cancel the solicitation if it is considered to be in its best interest.

II. BACKGROUND

Legislative History

In 1988, at the direction of the Minnesota Legislature, the Department of Public Safety prepared a study of the need for regional hazardous materials response teams. The study concluded that the majority of local public safety agencies were unable to provide hazardous materials emergency response capability, due in large part to the cost of training and equipping local teams. Regionally located teams were considered an efficient and cost effective solution. After examining a variety of alternatives, a state funded system of ten (10) advanced level teams supported by an intermediate level response capability was proposed.

A plan to implement the 1988 study was prepared for the MN Legislature in 1990. That plan revised the recommended system, and proposed the establishment of five (5) regional hazardous materials response teams and an unspecified number of strategically located chemical assessment teams. The plan also called for a partnership between state and local governments, and private industry, to protect Minnesota citizens, property and the environment. Under this system, the State would contract with existing public and non-public emergency response agencies for personnel and equipment to function as regional teams. In turn, the State would provide additional equipment, training, workers compensation coverage, and liability protection.

The Legislature responded to this plan by enacting the Minnesota Hazardous Materials Incident Response Act (Minnesota Statutes, chapter 299A.48 to 299A.52) during the 1992 legislative session. The law requires the Commissioner of Public Safety to establish a hazardous materials incident response plan and system in administrative rules (Minnesota Rules, chapter 7514). Following rule adoption, the Commissioner is authorized to establish a system of up to five (5) regional Hazardous Materials Emergency Response Teams and an unspecified number of Hazardous Materials Chemical Assessment Teams.

Components and Functions of the Hazardous Materials Regional Response Team Program

Two types of teams form the components of the Hazardous Materials Regional Response Team Program. While each type of team has a specific role in the response to an incident, each will work in conjunction with the other to support and assist the local response.

Hazardous Materials Emergency Response Team: Emergency Response Teams assist local authorities at the scene of a hazardous materials incident by taking actions necessary to protect life, property and the environment from the effects of a release of a hazardous material. Emergency actions include, but are not limited to, preventing the release, mitigating the effects of the release, and stabilizing the emergency situation. Emergency Response Teams also function as Chemical Assessment Teams for all or a portion of their primary response areas.

Hazardous Materials Chemical Assessment Team: (1) Chemical Assessment Teams assist local authorities at the scene of a hazardous materials incident by providing simple mitigation to a hazardous materials incident; and (2) required to recommend to the local incident manager the best means of controlling the hazard after consideration of life safety concerns, environmental effects, exposure hazards, quantity and type of hazardous material, availability of resources, or other relevant factors. Additionally Chemical Assessment Teams also assist Emergency Response Teams by responding, in conjunction with an Emergency Response Team, to assess an incident, develop and recommend mitigation strategies, and assist with response operations. (Minnesota Rules, chapter 7514.0900, subparts 3 and 4)

Related Functions of the Hazardous Materials Regional Response Team Program

Following completion of their emergency response functions, Emergency Response Teams and Chemical Assessment Teams may be requested to remain at the scene of a hazardous materials incident to provide support to local authorities monitoring clean-up activities conducted by local, state, or federal agencies, or the responsible person, for the purpose of ensuring public safety. (Minnesota Rules, chapter 7514.0900, subpart 5)

In addition, the Commissioner may authorize a team response to provide technical assistance in support of a bomb squad response to incidents involving explosives, explosive devices, incendiary devices, shock-sensitive explosive chemicals, or a law enforcement response to clandestine drug lab incidents. Teams may also respond to mitigate the effects of a hazardous materials release that might occur as a consequence of these incidents or to provide technical assistance in support of the local authority. (Minnesota Rules, chapter 7514.1600, subpart 4, and Minnesota Rules, chapter 7514, 0900, subpart 6, item C)

Prohibited Functions of the Hazardous Materials Regional Response Team Program

Emergency Response Teams and Chemical Assessment Teams are prohibited from performing certain functions. Teams shall not:

- a) transport, store, dispose of, or perform remedial clean-up of hazardous materials, except as may be incidentally necessary to mitigate an emergency;
- b) assume overall command of the hazardous materials emergency; and
- c) mitigate incidents involving explosives, explosive devices, incendiary devices, shock-sensitive explosive chemicals, or clandestine drug labs, except to respond to the effects of a hazardous materials release that might occur as a consequence of these incidents (Minnesota Rules, chapter 7514.0900, subpart 6, items a to c).

Response Area Designations

Primary Response Areas have been established in accordance with Minnesota Rules, chapter 7514.0500, subpart 1. At least one (1) Emergency Response Team and one (1) Chemical Assessment Team will be designated to each Primary Response Area. Areas so assigned will become the team's Primary Response Area. Teams will also be assigned a secondary response area consisting of the entire state of Minnesota in order to provide an alternate response to incidents which may occur anywhere in the state. (Minnesota Rules, chapter 7514.0500, subpart 7). Primary Response Area boundaries may be adjusted once the location of all teams has been finalized.

Appropriation

An annual appropriation by the Minnesota Legislature provides funding to support the program. Revenue to offset this appropriation is received from fees paid annually to the Minnesota State Emergency Response Commission by certain fixed facilities, and to the Minnesota Department of Transportation by the transportation industry.

III. STATEMENT OF PURPOSE AND ANTICIPATED RESULTS

Statement of Purpose

The purpose of the Hazardous Materials Regional Response Team Program is to establish an efficient and cost effective system which will provide support and assistance to local authorities responding to a hazardous materials incident occurring within the local jurisdiction.

Anticipated Results of the Program

As a result of the implementation of this program, it is anticipated that the ability of the state to provide an effective public safety response to hazardous materials incidents at the request of local authorities will be enhanced. In so doing,

- a) the public's safety from the effects of a hazardous materials incident will be increased, and

- b) the harmful impact of a hazardous materials release on property and the environment will be reduced.

IV. PROGRAM GOAL AND OBJECTIVES

Program Goal

The goal of the Hazardous Materials Regional Response Team Program is to protect the citizens of Minnesota, their property and the environment from the effects of a hazardous materials release.

Program Objectives

The following objectives serve to accomplish the program goal;

- a) Establish properly trained and equipped Hazardous Materials Emergency Response Teams;
- b) Establish properly trained and equipped Hazardous Materials Chemical Assessment Teams;
- c) Respond to hazardous materials incidents occurring in the state at the request of local authorities; and
- d) Advise, assist and support local authorities working to mitigate the effects of a hazardous materials release.

V. PROGRAM TASKS

Contractors (Emergency Response Team and Chemical Assessment Teams) will be responsible for all terms, tasks, and conditions assigned by Minnesota Statute, chapter 299A.48 to 299A.52 and Minnesota Rules, chapter 7514, including the following:

- a) Respond to hazardous materials incidents occurring in their primary and secondary response areas when requested (Minnesota Rules, chapter 7514.0900, subpart 1);
- b) Respond to any response area in the state when directed to do so by the Commissioner of Public Safety (Minnesota Rules, chapter 7514.0900, subpart 1);
- c) Coordinate on-scene emergency response operations with local, state, and federal agencies, Indian tribes, and private response organizations through the Minnesota National Incident Management System (Minnesota Rules, chapter 7514.1800, subpart 1);
- d) Ensure that team members are in compliance with the initial, continuing education, and team training requirements established in Minnesota Rules, chapter 7514.0600, subparts 1 to 4, and annually certify such compliance to the Commissioner (Minnesota Rules, chapter 7514.0600, subpart 6);

- e) Ensure that team members are in compliance with the medical requirements established in Minnesota Rules, chapter 7514.0600, subpart 7, and annually certify such compliance to the Commissioner (Minnesota Rules, chapter 7514.0600, subpart 7);
- f) Deploy team personnel and equipment to a hazardous materials incident within an average of fifteen (15) minutes from the time the decision is made to dispatch the team (Minnesota Rules, chapter 7514);
- g) Ensure compliance with all other employer requirements established in Minnesota Rules, chapter 7514;
- h) Conduct a formal evaluation of the team's response to each incident as required by Minnesota Rules, chapter 7514.1300;
- i) Submit a detailed report of the team's response to an incident as required by Minnesota Rules, chapter 7514.0900, subpart 7, items A to D;
- j) Designate a primary and alternate representative to the Hazardous Materials Regional Response Team Program Advisory Committee, who will attend all meetings of the committee and have the authority to make recommendations on behalf of the contractor;
- k) Designate a primary and alternate representative who will receive training in applying the suggested operating guidelines and other administrative procedures of the regional response team program, provided by the Commissioner, as required by Minnesota Rules, chapter 7514.0700, subpart 2, and who will be responsible for providing that instruction to other team members;
- l) Maintain and store emergency response vehicles and equipment, whether leased from the state or owned by the contractor, in proper working order and ready for response at all times; and
- m) Submit claims for recoverable costs to the Commissioner as required by Minnesota Rules, chapter 7514.1700, subparts 1 and 3.

In addition, Emergency Response Teams will be specifically responsible for the following tasks:

- a) Maintain the minimum composition of team members required by Minnesota Rules, chapter 7514.0800, subparts 1 or 2;
- b) Respond to each incident as an emergency response team with nine (9) persons certified to the levels of hazardous materials training required by Minnesota Rules, chapter 7514.0800, subpart 5, items A to C;
- c) Respond to incidents and assist local authorities by taking emergency actions necessary to protect life, property, and the environment from the effects of a release of a hazardous material (Minnesota Rules, chapter 7514.0900, subpart 2);

- d) Take emergency actions at the scene of a hazardous materials incident including, but not limited to, preventing the release, mitigating the effects of the release, and stabilizing the emergency situation (Minnesota Rules, chapter 7514.0900, subpart 2); and
- e) Respond to incidents to perform the functions of a Chemical Assessment Team as required by Minnesota Rules, chapter 7514.0900, subparts 3 and 4, with a minimum of three (3) and a maximum of five (5) persons certified to the levels of hazardous materials training required by Minnesota Rules, chapter 7514.0800, subpart 6, items A to B.

In addition, Chemical Assessment Teams will be responsible for the following tasks:

- a) Maintain the minimum composition of team members required by Minnesota Rules, chapter 7514.0800, subparts 3 or 4;
- b) Respond to incidents to perform the functions of a Chemical Assessment Team as required by Minnesota Rules, chapter 7514.0900, subparts 3 and 4, with a minimum of three (3) and a maximum of five (5) persons certified to the levels of hazardous materials training required by Minnesota Rules, chapter 7514.0800, subpart 6, items A to B.
- c) Respond to incidents and assist local authorities at the scene of a hazardous materials incidents by providing simple mitigation to the hazardous materials incident and recommend to the local incident manager the best means of controlling the hazard after consideration of life safety concerns, environmental effects, exposure hazards, quantity and type of hazardous material, availability of resources, or other relevant factors. (Minnesota Statute, chapter 299A.49, subpart 2); and
- d) Respond to incidents in conjunction with an Emergency Response Team, to assess an incident, develop and recommend mitigation strategies, and assist with response operations (Minnesota Rules, chapter 7514.0900, subpart 4).

VI. PROGRAM COSTS

Contractor Compensation

The total amount of annual funding available for this program is subject to appropriations by the State Legislature. Of the current anticipated appropriation, the Department of Public Safety has estimated that the costs of this program should not exceed \$45,000.00 annually for each designated Chemical Assessment Team, and should not exceed \$120,000.00 annually for each designated Emergency Response Team. These estimates may change depending on the amount of the final budget appropriation.

Annual contractor compensation may be used by each designated team to cover all or a portion of the following costs (Minnesota Rules, chapter 7514.1500, subpart 7):

- a) The cost of capital equipment including vehicles;
- b) The annual cost of training team personnel;

Note: This item also includes the cost of team member participation in exercise and training activities conducted outside of the team's normal geographic jurisdiction.

- c) The cost of annual medical examinations for team personnel;
- d) The initial cost of consumable supplies;
- e) Program administration costs, and
- f) Equipment maintenance costs.

Team Response Costs Eligible for Recovery from the State

In addition to the annual contractor compensation teams may recover from the state the reasonable and necessary costs incurred as the result of a response (Minnesota Rules, chapter 7514.1700, subpart 1). Costs eligible for recovery include (Minnesota Rules, chapter 7514.1700, subpart 3):

- a) Team personnel costs;

Note: This item includes team personnel costs incurred inside and outside of the team's normal geographic jurisdiction when a team is activated by the State.

- b) Additional wage costs for local callback personnel;
- c) Vehicle operating costs;

Note: Chemical Assessment Teams proposing to respond with more than three (3) persons may propose to recover the vehicle operating cost of a contractor owned vehicle used to transport the additional personnel.

- d) Cost of consumable supplies used;
- e) Costs of repair or replacement of damaged or destroyed equipment;
- f) Communications costs, including long distance and cellular telephone charges;
- g) Administrative costs;
- h) Costs incurred in the use of special equipment;
- i) Costs incurred in the use of special technical assistance;
- j) Costs associated with providing support to clean-up operations when requested;

- k) Costs associated with providing standby technical assistance when requested; and
- l) Other direct costs incurred by the team as a result of the response.

Costs submitted for recovery must reflect the actual costs incurred as result of the response.

Recovery of Team Response Costs

Teams will submit claims for reimbursement of reasonable and necessary costs, identified in Minnesota Rules, chapter 7514.1700, subpart 3, incurred as a result of the response to the Commissioner in the manner and form prescribed by the Commissioner. The State will reimburse teams for actual costs of a response after receipt of a properly filed claim, and recover the amount of the claim from the person responsible for the incident (Minnesota Rules, chapter 7514.1700, subparts 1 and 2).

The State's contract language includes the following terms and conditions (summarized here) which you should be aware of in preparing your response.

- a) Compensation will be for ALL services performed, unless a specific payment schedule is mutually agreed upon. The State DOES NOT make regular payments on the passage of time, it only pays for services performed or work delivered AFTER it is accomplished.
- b) Payment is only made after the submission of an authorized invoice to the state, and the state must pay its invoices within 30 days of receipt, unless they are formally contested.
- c) Reimbursement for travel and subsistence expenses actually incurred in performance of a contract is limited to the current "Commissioner's Plan" promulgated by the Commissioner of Employee Relations. Travel outside of Minnesota must have received PRIOR written approval of the agency contract BEFORE it takes place. You can contact the Commissioner of Employee Relations to get a copy of this plan.
- d) No more than 90 percent of the full amount due under a contract may be paid until the final product(s) of the contract have been reviewed by the agency head, and the agency head has determined that the contractor has satisfactorily fulfilled all the terms of the contract.

VII. REPORTING REQUIREMENTS

Annual Report

The employer (Minnesota Rules, chapter 7514.0100, subpart 7) of each Emergency Response Team and Chemical Assessment Team shall annually certify to the Commissioner that team members have received training that meets the requirements of Minnesota Rules, chapter 7514.0600, subparts 1 to 4.

In addition, the employer of each Emergency Response Team and Chemical Assessment Team shall annually certify to the Commissioner that team members met the medical requirements of Code of Federal Regulations, title 29, section 1910.120.

Emergency Response Team and Chemical Assessment Teams shall annually provide the Commissioner with a detailed inventory of all hazardous materials vehicles, equipment, and supplies owned by the state and loaned to the contractor, and/or owned by the contractor.

Incident Reports

Each Emergency Response Team and Chemical Assessment Team shall submit to the Commissioner a detailed report of its response to an incident. The report must be prepared in a manner and form prescribed by the Commissioner and, at the minimum, must include (Minnesota Rules, chapter 7514.0900, subpart 7, items A to D):

- a) A list of all equipment used and personnel who responded;
- b) A description of all emergency actions taken;
- c) A copy of the site safety plans developed during the response; and
- d) Completed cost recovery forms.

Incident Response Evaluation Reports

Each Chemical Assessment Team shall conduct an evaluation of a response to an incident within 30 days after termination of the team's response. The team shall give all public and private agencies involved in the response the opportunity to participate in the evaluation. The team shall prepare a written report following completion of the evaluation, a copy of which must be provided to the Commissioner within 15 days of the date the evaluation is completed. (Minnesota Rules, chapter 7514.1300)

VIII. DESIRABLE ATTRIBUTES AND QUALIFICATIONS

In evaluating the proposals and selecting contractors, the Evaluation Committee will give extra consideration to proposals that demonstrate a commitment on the part of the team and its individual members to maintaining maximum readiness to respond to hazardous materials incidents as demonstrated by the following:

1. Commitment to comprehensive initial and continuing education of team members.
2. Participation in exercise training programs conducted by the team and local authorities in the team's primary response area.
3. Commitment to the maintaining the health and safety of team members.
4. Willingness to serve as a resource to state and local authorities regarding hazardous materials issues.

5. Commitment to the continued development and enhancement of the regional response team program.
6. Commitment to the continued financial support of the local hazardous materials team during the term of any contract that might result from acceptance of a proposal submitted in response to this solicitation.
7. Commitment not to supplant local funding for hazardous materials emergency response with State funding from any contract that might result from acceptance of a proposal submitted in response to this solicitation.

IX. PROPOSAL CONTENTS

The proposal must contain the following elements:

1. TYPE OF TEAM(S) BEING PROPOSED

Identify the type of team being proposed, i.e. Hazardous Materials Emergency Response Team, or Hazardous Materials Chemical Assessment Team.

Emergency response teams also serve as a chemical assessment team for all or a portion of their primary response area as assigned by the Commissioner (Minnesota Rules, chapter 7514.0500, subpart 5).

Emergency response teams and chemical assessment teams may be composed of personnel from one or more public or non-public entities (Minnesota Rules, chapter 7514.0800, subpart 7).

In this Request for Proposal, a Hazardous Materials Emergency Response Team, and 10 Chemical Assessment Teams are being requested.

2. COMPOSITION OF THE PROPOSED TEAM

Identify each public and/or non-public entity which will be part of the proposed team. At the minimum, such identification must include the name of each entity, the primary mailing address of each entity, the name and title of the chief executive officer of each entity, the primary mailing address and daytime telephone number of the chief executive officer of each entity, and whether it is a public or non-public entity.

Note if the organization(s) is a public entity: Proposals submitted by one or more public entities must include a copy of a resolution approved by the governing body of each entity which authorizes the submission of a proposal in response to this solicitation.

3. POINT OF CONTACT FOR TEAM DISPATCH

Identify the single point of contact which will be used to dispatch the team. At the minimum, such identification must include the name of the dispatch center and its mailing address, physical address (if different than the mailing address), 24 hour emergency telephone number (non-911 number), non-emergency telephone number, and the name, title, mailing address and daytime telephone number of the person responsible for the center's operation.

4. POINT OF CONTACT FOR CONTRACT ADMINISTRATION

Identify the single authority who will be responsible for administration of any contract which may result from the submission of a proposal in response to this solicitation. At the minimum, such identification must include the name and title of the individual with the authority to administer the contract and that individual's mailing address, physical address (if different than the mailing address), and daytime telephone number.

Note if the organization(s) is a public entity: Proposals submitted by a public entity must include a copy of a resolution approved by the governing body authorizing the individual named to administer any contract which may result from the submission of a proposal in response to this solicitation.

5. EMPLOYER DESIGNATION

Identify the employer who will be responsible for the employer requirements established in Minnesota Rules, chapter 7514, for any contract which may result from the submission of a proposal in response to this solicitation. At the minimum, such identification must include the name and title of the individual or entity identified as the employer and that entity's or individual's mailing address, physical address (if different than the mailing address), and daytime telephone number.

6. MEMBERSHIP OF THE PROPOSED TEAM

A Hazardous Materials Emergency Response Team must be composed of at least thirty (30) qualified members (Minnesota Rules, chapter 7514.0800, subpart 1). The Commissioner shall permit a emergency response team to be composed of fewer than thirty (30) qualified members when the team's employer can prove to the Commissioner's satisfaction that twelve (12) members of the team will be available for response at all times. (Minnesota Rules, chapter 7514.0800, subpart 2).

A Hazardous Materials Chemical Assessment Team must be composed of at least nine (9) qualified members (Minnesota Rules, chapter 7514.0800, subpart 3). The Commissioner shall permit a Chemical Assessment Team to be composed of fewer than nine (9) qualified members when the team's employer can prove to the Commissioner's satisfaction that three (3) members of the team will be available for response at all times. (Minnesota Rules, chapter 7514.0800, subpart 4).

Identify the total number of persons, by level of training, who will serve as members of the team.

Provide the number of persons, by hazardous materials level of training, who will serve as members of the emergency response or chemical assessment team. For teams composed of more than one public or non-public entity, include the number of persons from each organizational affiliation who will serve as members of the team.

Note for proposed teams requesting a waiver of minimum composition: Any proposed team requesting a waiver of the minimum number of required personnel must include in the proposal sufficient documentation in support of their request which will permit the Commissioner to make an informed decision.

7. TEAM MEMBER TRAINING

Include a statement that current, or proposed, hazardous materials training provided to team members meets the requirements of Code of Federal Regulations, title 29, section 1910.120, and is in substantial compliance with NFPA 472 and, where applicable, NFPA 473.

8. STAFFING PLAN FOR MINIMUM NUMBER OF RESPONSE PERSONNEL

Emergency Response Teams

Emergency response teams must have twelve (12) members available for response at all times. Nine (9) of the twelve (12) must be available to respond as an emergency response team. Three (3) of the (12) must be available to respond as a chemical assessment team.

When responding as an emergency response team, at least four (4) members must be certified by the employer at the highest level of hazardous materials training (currently established at the specialist level) as defined by Code of Federal Regulations, title 29, section 1910.120. The one (1) member assigned to provide medical support to the team on each response must be certified by the employer at a minimum of the operations level as defined by Code of Federal Regulations, title 29, section 1910.120. The remaining members (four) (4) must be certified by the employer at a minimum of the technical level as defined by Code of Federal Regulations, title 29, section 1910.120 (Minnesota Rules, chapter 7514.0800, subpart 5).

Describe the proposed team's plan for scheduling and maintaining minimum required, or proposed (Emergency Response Teams only) levels of staffing.

State the number of persons that will respond to each incident as an Emergency Response Team.

Identify the minimum level of training of the personnel responding to each incident.

Chemical Assessment Teams

Chemical Assessment Teams must have three (3) members available for response at all times (Minnesota Rules, chapter 7514.0800, subpart 3). One (1) of the three (3) must be certified by the employer at the highest level of hazardous materials training (currently established at the specialist level) as defined by Code of Federal Regulations, title 29, section 1910.120. The remaining members must be certified by the employer at a minimum of the technician level as defined by Code of Federal Regulations, title 29, section 1910.120 (Minnesota Rules, chapter 7514.0800, subpart 6).

A Chemical Assessment Team is required to respond to each incident with a minimum of three (3) persons, but may propose to respond to each incident with up to five (5) persons. Respondents must state in their proposal the number of persons who will respond. The agreed upon number will then be established in contract. The state will pay the contractor for the agreed upon number of personnel, and recover the costs related to that number of personnel from the person responsible for the incident.

Describe the proposed team's plan for scheduling and maintaining minimum required, or proposed (Chemical Assessment Teams only) levels of staffing.

State the number of persons (minimum of three [3], maximum of five [5]) that will respond to each incident as a Chemical Assessment Team.

Identify the minimum level of training of the personnel responding to each incident.

9. GEOGRAPHIC LOCATION OF THE PROPOSED TEAM

Describe the location of the proposed team within the preliminary response area.

Respondents must identify the location (city and street address) of the proposed team, including the location of all stations from which the team may respond. Teams composed of more than one public or non-public entity must identify the location of each entity.

Note: Response area boundaries will be finalized following completion of the team selection process, and will be formalized in contract.

10. RESPONSE EQUIPMENT AND VEHICLES

Note - Equipment: The Department has prepared lists of Emergency Response Team and Chemical Assessment Team equipment. These lists are included as an attachment to this request for proposals; labeled Exhibit A. Lists identify the equipment which is owned by the state and loaned to the contractor during the term of the contract, and/or equipment which must be provided by the contractor. Teams may propose to use the compensation for capitol equipment to cover all or a portion of the cost of capitol equipment not provided by the state. Teams may

also propose the use of existing equipment, or the purchase of their own equipment, which meets the Department's requirements (subject to approval by the state). The compensation for capitol equipment may be used to cover all or a portion of the cost of that equipment.

Note - Vehicles: The Department will provide one (1) emergency response vehicle for the Emergency Response Team and for each stand-alone Chemical Assessment Team, and one equipment trailer for each Chemical Assessment Team, which meets the requirements of Minnesota Rules, chapter 7514.1400, subpart 3. Vehicles and trailers purchased by the State will be loaned to the team for the term of the contract. Teams may also propose the use of an existing vehicle or trailer, or the purchase of their own vehicle or trailer which meets the requirements of Minnesota Rules, chapter 7514.1400, subpart 3 (subject to approval by the state). The compensation for vehicles may be used to cover all or a portion of the cost of such vehicle and/or trailer.

Note - Storage: The contractor will be required to provide heated storage and maintenance for any vehicle, trailer and all equipment loaned to the team by the state. Funding is available as part of the contractor compensation to cover all or a portion of the cost of vehicle and equipment maintenance, but not for the construction of a heated storage area.

Respondents must include in their proposal:

- a) Using the Emergency Response Team/Chemical Assessment Team equipment lists as a reference, a list of all hazardous materials emergency response supplies and equipment currently owned, leased, or otherwise immediately available to the team.
- b) A list of any other hazardous materials supplies and equipment not included on the preliminary equipment lists which are owned, leased, or otherwise immediately available to the team.
- c) Identify by make, model and model year any vehicle(s) and/or equipment trailers owned, leased, or otherwise available which are proposed to be used by the team.
- d) Include a statement agreeing to maintain all equipment loaned to the team by the state.
- e) Proposals must describe the location where the vehicle, trailer and equipment will be stored.

11. TEAM EXPERIENCE

Describe the team's experience responding to hazardous materials incidents, including the number of years the team has been in existence.

Describe the team's experience by establishing the number of years the team, as an entity, has been in existence. Experience must also be described by documenting a

sufficient number of incidents to demonstrate the team's experience with a variety of hazardous materials.

12. EXISTING/PROPOSED TRAINING AND EXERCISE PROGRAMS

Describe the team's existing and proposed training, continuing education and exercise training programs.

Identify the source which provides the team's existing and proposed training, continuing education and exercise training programs.

To describe the team's existing exercise training program include a list of hazardous materials exercises, beginning with the current calendar year and not exceeding the previous two (2) year period, in which the team has played an active role as a participant.

Describe how the team proposes to participate in exercise training programs conducted by local authorities in the team's Primary Response Area.

To describe the team's proposed exercise training program, include a statement which describes the extent to which the team plans to participate in hazardous materials exercises conducted by local authorities in the team's primary response area.

Note: A portion of the training funds available to the team as part of the annual contractor's compensation may be used to cover costs associated with exercises taking place outside of the team's normal geographic jurisdiction.

13. TEAM DEVELOPMENT

Include an estimate of the period of time necessary for further development of the team to bring it to the point where it will be ready to respond.

Items which must be addressed in this section include the period of time necessary for training team personnel to the minimum standards required by Minnesota Rules, chapter 7514, and / or for acquiring necessary equipment and vehicles.

14. DIRECT AND INDIRECT SUPPORT

The Hazardous Materials Regional Response Team Program exists as a partnership between the state, business and industry, and the regional teams. The state, and business and industry, participate in this partnership by providing funding and equipment to support the team's response to hazardous materials incidents whether they occur within or outside its geographic jurisdiction.

Describe any direct or indirect contributions the respondent proposes to provide in support of the team. Include an estimated total monetary value of proposed direct and indirect support.

Include a statement that state funding received from any contract that might result from acceptance of this proposal will not be used to supplant local funding for hazardous materials emergency response.

Examples of direct contributions include funding for personnel costs, supplies and equipment, training, personnel medical costs, administrative costs and vehicle and equipment maintenance costs provided by the contractor in addition to the contractor compensation provided by the state.

Examples of indirect contributions include office space, office furniture, and use of office equipment such as computers and copy machines.

15. TEAM RESPONSE COSTS

Teams may recover from the State, the reasonable and necessary costs incurred as the result of a State authorized response (Minnesota Rules, chapter 7514.1700, subparts 1 and 2). Cost eligible for recovery include:

- a) Team personnel costs;

Note: This item includes team personnel costs incurred inside and outside the teams normal geographic jurisdiction when a team is activated by the State.

- b) Additional wage costs for local callback personnel;

- c) Vehicle operating costs;

Note: Chemical Assessment Teams proposing to respond with more than three (3) persons may propose to recover the vehicle operating cost of a contractor owned vehicle used to transport the additional personnel.

- d) Cost of consumable supplies used;

- e) Costs of repair or replacement of damaged or destroyed equipment;

- f) Communications costs, including long distance and cellular telephone charges;

- g) Administrative costs;

- h) Costs incurred in the use of special equipment;

- i) Costs incurred in the use of special technical assistance;

- j) Costs associated with providing support to clean-up operations when requested;

- k) Costs associated with providing standby technical assistance when requested; and
- l) Other direct costs incurred by the team as a result of the response (Minnesota Rules, chapter 7514.1700, subpart 3).

Using the Cost Proposal Sheet; labeled Exhibit B:

List the actual costs of items a), b), c), and g) for year one (1) of the contract and the estimated costs for year two (2) of a contract. For items d), e), f), h), i), j, k) and l), include a statement that the costs for these items will not exceed the actual costs incurred.

For item b), Chemical Assessment Teams proposing to use a contractor owned vehicle to transport additional personnel to an incident must also identify the type of vehicle proposed to be used for that purpose.

16. DEPLOYMENT TIME

Provide an estimate of the period of time necessary for deployment of the team.

17. RESPONSE TIME

Provide an estimate of the response time, when traveling under favorable weather conditions, to the furthest most point of the Primary Response Area, described in this request for proposal, in which the team is located.

18. GEOGRAPHIC JURISDICTION

Identify the team's normal geographic jurisdiction.

Describe the team's normal geographic jurisdiction. This description will be included in any contract between the State and the team that may result from this solicitation.

19. REFERENCES

Names and telephone numbers of references may be provided in the proposal. Letters of support may be included only if they indicate direct contributions of either in-kind services or funding.

Proposal sections should be clearly titled. Check proposals before submission to ensure all of the required information listed above is included. A Proposal Contents Checklist is included as an attachment to this solicitation as an aid to respondents. Proposals omitting any of the required sections will not be evaluated.

20. OTHER REQUIRED DOCUMENTS

The following is a list of documents that must be completed and signed by an authorized representative of the entity submitting a proposal, and must be included with your proposal:

Certificate Regarding Lobbying
Affirmative Action Certification
Affidavit of Noncollusion
Veteran-Owned Preference Form (if applicable)

X. AGENCY CONTACT

Prospective respondents who have questions regarding this request for proposal may call or write to:

Bill Chandler
Homeland Security and Emergency Management
444 Cedar Street, Suite 223
St. Paul, MN 55101-5145
(651) 201-7450
Fax (651) 296-0459
Email: William.chandler@state.mn.us

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

All answers to questions will be in writing and will be sent to all entities requesting a complete Request for Proposal. Questions must be received by Bill Chandler by no later than 4:00 pm. Central Daylight Time on June 22, 2012. Questions received after that date and time, may not receive a response.

XI. PROPOSAL DEVELOPMENT CONFERENCE

A proposal development conference has been scheduled by the department for June 18, 2012 at 2:00 pm Central Daylight Time and will be held at the MN Department of Public Safety, 444 Cedar Street, Suite 223 in St. Paul., MN, Governors Conference Room. The entire request for proposal package will be reviewed and questions received from those in attendance will be recorded. All questions and answers will be sent out to all entities attending the conference and/or requesting a copy of the complete RFP. Anyone intending to submit a proposal in response to this solicitation is invited and encouraged to be present.

XII. SUBMISSION OF PROPOSALS

Proposals may be submitted to provide service as either an Emergency Response Team or a Chemical Assessment Team. **Proposals must clearly identify the type of team for which the proposal is being submitted.**

All proposals must be sent to and received by no later than 2:00 pm, Central Daylight Time, on July 2, 2012:

Agency: Minnesota Department of Public Safety
Homeland Security and Emergency Management

Name/Title: Bill Chandler, Homeland Security Branch Director

Address: 444 Cedar Street, Suite 223
St. Paul, MN 55101-5145

All costs incurred in responding to this Request for Proposals will be borne by the responder.

Contracts results from this Request for Proposal are expected to begin October 1, 2012. Late proposals will not be considered. Fax and e-mail responses will not be considered.

Submit two (2) copies of the proposal, one (1) of which must be unbound and suitable for photocopying. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. At least one copy of the proposal must be signed, in ink, by an authorized member of the entity submitting the proposal. Prices and terms of the proposal as stated must be valid for the length of any resulting contract [See section XIV of this RFP for the length of contract]. **The Cost Proposal Sheet is to be sealed in a separate envelope labeled "Cost Proposal" and included with your proposal.** For purposes of completing the cost proposal, the state does not make regular payments based upon the passage of time; it only pays for services performed or work delivered after it is accomplished.

XIII. EVALUATION OF PROPOSALS

Evaluation Criteria

Note: The *minimum* evaluation criteria, established in Minnesota Rules, chapter 7514.1500, subpart 4, are included in the factors listed below and identified by an asterisk (*), and will be used by the Department's evaluation team in evaluating proposals.

The *minimum* factors on which proposals will be evaluated include the following:

1. The number and qualifications of each member of the team;*
2. A plan for the maintenance of minimum required levels of staffing;*

3. Commitment to the continued financial support of the local hazardous materials team as demonstrated by the amount of direct and/or indirect program support provided to the local entity;*
4. The hazardous materials emergency response supplies and equipment, including vehicles, and personnel resources immediately available to the team, whether owned, leased, or available by arrangement;*
5. Hazardous materials emergency response experience, including the length of time the team has been in existence and the number and variety of actual responses made;*
6. Existing and/or proposed training program that complies with CFR 1910.120*
7. The length of time necessary for further development to bring the team to the point where it will be ready to respond;*
8. The estimated administrative costs of a team response;*
9. The estimated period of time necessary for the deployment of the team; and*
10. The estimated maximum response time to the furthest most point of the preliminary response area.*

The following factors which are *desired* qualifications will also be given consideration:

1. Commitment to comprehensive initial and continuing education of team members;
2. Commitment to maintaining the health and safety of team members;
3. Willingness to serve as a resource to state and local authorities regarding hazardous materials issues;
4. Commitment to the continued development and enhancement of the Regional Response Team Program;
5. The location of the proposed team within the designated primary response area, including response time considerations such as access to major transportation routes, and geographic and other physical barriers to a response;*
6. Commitment not to supplant local funding for hazardous materials emergency response with state funding from any contractor that might result from acceptance of a proposal submitted in response to this solicitation.

All responses received by the deadline will be evaluated by representatives of the Department of Public Safety, Homeland Security and Emergency Management. In some instances, an interview may be part of the evaluation process. The State reserves the right to adjust the technical scores either up or down based on information obtained from the interview process. A 100-point scale will be used to create the final evaluation recommendation. The factors and weighting on which proposals will be judged are:

1. Response to *minimum* evaluation criteria, Minnesota Rules, chapter 7514.1500, subpart 4, identified by an asterisk (*) above 60%
2. Response to the six desired qualifications listed above 10%
3. Cost detail 30%

Evaluation Committee

All responsive proposals received by the deadline will be evaluated by a committee of at least five (5) technically qualified individuals, appointed by the Commissioner of the Department of Public Safety. Members of the Evaluation Committee are prohibited from having any direct financial interest between any aspect of the team program and any respondent to the request for proposals. The Committee will evaluate all proposals received and recommend the most qualified respondents to the Commissioner for designation as service providers (Minnesota Rules, chapter 7514.1500, subparts 2 and 3). The Commissioner will make the final determination regarding selection of service providers.

The Department of Public Safety plans to submit all responsive proposals received to the Evaluation Committee the week of July 9, 2012. In some instances, an interview may be part of the evaluation process. **It is anticipated that any necessary interviews will be conducted** during July 16 to July 20 2012. Respondents who are requested to appear before the Evaluation Committee will be notified of the time and location at least twenty-four (24) hours in advance. The Committee's recommendations will be forwarded to the Director of Homeland Security and Emergency Management the week of July 23, 2012, and to the Commissioner of Public Safety the week of July 23, 2012. It is expected that the Commissioner will make final decisions regarding service providers by July 30, 2012. Results will be sent immediately by mail to all respondents.

XIV. AWARDING AND RENEWAL OF CONTRACTS

The Department intends to begin contract negotiations with selected respondents immediately following the Commissioner's final decision regarding selection of service providers. Initial contracts will be awarded by the Department for up to a two (2) year period (October 1, 2012 through September 30, 2014). The Department, however, will retain the option to renew each contract with the contractors for up to an additional three (3) years, not exceeding a total of five (5) years

XV. ATTACHMENTS TO THE REQUEST FOR PROPOSALS

The following items are attached to the Request for Proposals, to serve as references for use by respondents to this solicitation:

- Description of the preliminary Primary Response Area boundaries (Map)

- List of State Owned / Provided Hazardous Materials Emergency Response Equipment (Exhibit A)
- Cost Proposal Sheet [Sample] (Exhibit B)
- Proposal Contents Checklist (Exhibit C)
- Certificate Regarding Lobbying
- State of Minnesota - Affirmative Action Certification
- Affidavit of Noncollusion
- Veteran-Owned Preference Form
- Contract Shell

XVI. 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.

Preference to Targeted Group and Economically Disadvantaged Business and Individuals

In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors will receive a six percent preference in the evaluation of their proposal. Eligible TG businesses must be currently certified by the Materials Management Division prior to the solicitation opening date and time. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by email at mmdhelp.line@state.mn.us. For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

Veteran-Owned Preference

In accordance with Minnesota Statute §16C.16, subd. 6a, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its proposal.

Eligible veteran-owned small businesses include CVE verified small businesses that are majority-owned and operated by either recently separated veterans, veterans with service-connected disabilities, and any other veteran-owned small businesses (pursuant to Minnesota Statute §16C.16, subd. 6a).

Information regarding CVE verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and sign the **Veteran-Owned Preference Form** in this solicitation. Only eligible, CVE verified, veteran-owned small businesses that provide the required documentation, per the form, will be given the preference.

Human Rights Requirements

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."

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

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

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.

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 _____

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 and time 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 and time 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). [If the date is the same as the response due date, indicate the time your plan was received: _____ (time). **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 Services Section

Mail: 190 East 5th St., Suite 700 St. Paul, MN 55101

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: employerinfo@therightsplace.net

**STATE OF MINNESOTA
AFFIDAVIT OF NONCOLLUSION**

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

My commission expires: _____

(Rev. 12/06)

STATE OF MINNESOTA

VETERAN-OWNED PREFERENCE FORM

In accordance with Minnesota Statute §16C.16, subd. 6a, veteran-owned businesses with their principal place of business in Minnesota and verified as eligible by the United States Department of Veterans Affairs' Center for Veteran Enterprises (CVE Verified) will receive up to a 6 percent preference in the evaluation of its proposal.

If responding to a Request for Bid (RFB), the preference is applied only to the first \$500,000 of the response. If responding to a Request for Proposal (RFP), the preference is applied as detailed in the RFP.

Eligible veteran-owned small businesses must be CVE Verified (in accordance with Public Law 109-471 and Code of Federal Regulations, Title 38, Part 74) at the solicitation opening date and time to receive the preference.

Information regarding CVE Verification may be found at <http://www.vetbiz.gov>.

Eligible veteran-owned small businesses should complete and **sign** this form. Only eligible, CVE Verified, veteran-owned small businesses that provide this completed and signed form will be given the preference.

I hereby certify that the company listed below:

1. Is an eligible veteran-owned small business, as defined in Minnesota Statute §16C.16, subd. 6a; and
2. Has its principal place of business in the State of Minnesota; and
3. Is CVE Verified by the United States Department of Veterans Affairs' Center for Veterans Enterprise.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone: _____

Printed Name: _____ Title: _____

IF YOU ARE CLAIMING THE VETERAN-OWNED PREFERENCE, SIGN AND RETURN THIS FORM WITH YOUR RESPONSE TO THE SOLICITATION.

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.

a) STATE OF MINNESOTA
b) PROFESSIONAL AND TECHNICAL SERVICES CONTRACT

This contract is between the State of Minnesota, acting through its Commissioner of _____ ("State") and _____ ("Contractor").

Recitals

1. Under Minnesota Statute § 15.061 the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of _____.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

Contract

1 Term of Contract

c) 1.1 *Effective date:* _____, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

d) **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.**

e) 1.2 *Expiration date:* _____, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

f) 1.3 *Survival of Terms.* The following clauses survive the expiration or cancellation of this contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 14. Publicity and Endorsement; 15. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

2 Contractor's Duties

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

3 Time

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

4 Consideration and Payment

g) 4.1 *Consideration.* The State will pay for all services performed by the Contractor under this contract as follows:

h) (A) *Compensation.* The Contractor will be paid _____.

i) (B) *Travel Expenses.* Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed \$ _____; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations, which is incorporated in to this contract by reference. 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.

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

k) 4.2 **Payment.**

l) (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 and according to the following schedule:

m) (B) **Retainage.** Under Minnesota Statutes Section 16C.08, subdivision 5(b), no more than 90% of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.

n) (C) **Federal funds.** (Where applicable, if blank this section does not apply) Payments under this contract will be made from federal funds obtained by the State through Title _____ CFDA number _____ of the _____ Act of _____. The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.

5 **Conditions of Payment**

All services provided by the Contractor under this 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 including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6 **Authorized Representatives**

The State's Authorized Representative is _____, or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Authorized Representative is _____, or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

7 **Assignment, Amendments, Waiver, and Contract Complete**

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

p) 7.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

q) 7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.

r) 7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

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 this 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 contract.

10 Government Data Practices and Intellectual Property

s) 10.1 *Government Data Practices.* The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, (or, 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 under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statute Ch. 13, by either the Contractor or the State.

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

t) 10.2. *Intellectual Property Rights.*

u) (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 this contract.* Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this contract. 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 this contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

v) (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 this 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.

11 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. Contractor shall not commence work under the contract until they have obtained all the insurance specified in the solicitation document. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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.

12 Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions

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

13 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 Contractor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Contractor's certification is a material representation upon which the contract award was based.

14 Publicity and Endorsement

w) 14.1 *Publicity.* Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

x) 14.2 *Endorsement.* The Contractor must not claim that the State endorses its products or services.

15 Governing Law, Jurisdiction, and Venue

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

16 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.

17 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).

18 Termination

y) 18.1 *Termination by the State.* The State or commissioner of Administration may cancel this contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

z) 18.2 *Termination for Insufficient Funding.* The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services 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 contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

19 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.

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

20 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.

aa) 20.1 *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.

bb) 20.2 *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.

20.3 *Minnesota Rule 5000.3400-5000.3600.*

(A) *General.* Minnesota Rule 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 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 Rule 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

21 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.

[Signatures as required by the State.]