



MINNESOTA STATE RETIREMENT SYSTEM



REQUEST FOR PROPOSAL

Aurora Modernization RFP 75

Date Posted: May 15, 2023

- Responses must be received not later than 3:00 p.m., Central Data Time (CDT), June 9, 2023
- Late responses will not be considered

Minnesota's Commitment to Diversity and Inclusion

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

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

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

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SECTION 1 – INSTRUCTIONS TO RESPONDERS

Steps for Completing Your Response	Follow the steps below to complete your response to this solicitation: Step 1: Read the solicitation documents and ask questions, if any Step 2: Write your response Step 3: Submit your response
Incomplete Submittals	A response must be submitted along with any required additional documents. Incomplete responses that materially deviate from the required format and content may be rejected.

STEP 1 – READ THE SOLICITATION DOCUMENT & ASK QUESTIONS, IF ANY

How to Ask Questions

The contact person for questions is:

Kris Wenner, Contract Manager
Minnesota State Retirement System
kris.wenner@msrs.us

Questions should be emailed to the contact by 3:00 p.m. CDT May 30, 2023.
Other personnel are not authorized to answer questions regarding this solicitation.

STEP 2 – WRITE YOUR RESPONSE

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

Review, sign, and include the Responder Declarations with your response.

STEP 3 – SUBMIT YOUR RESPONSE

Where to Email Your Response

Email your response instructions. Send Proposal and Cost Detail as two separate attached documents to one email submission: kris.wenner@msrs.us

Subject Line of Email to read “RFP 75; *Responder’s Company name*”

The two separate attached documents to the email should be named as follows:

- RFP 75 Proposal; *Responder’s Company name*
- RFP 75 Cost; *Responder’s Company name*

By submitting a response, your company is making a binding legal offer for the period of time set forth below in Section 6, Conditions of Offer. Proposals must be received not later than **3:00 p.m. CDT June 9, 2023. Late responses will not be considered**, even if errors or delays were caused by issues outside of Responders’ control.

MSRS Definition of Terms and Acronyms

For purposes of this RFP, the following terminologies and acronyms apply.

Terms

Account Online – Externally facing business application

Aurora Application – Internally facing business application

Aurora Suite – MSRS’s primary suite of business applications

Soap-services – Internal application used for connecting Aurora with MSRS’s document management system

Spring MVC pattern – Web pages built with the Spring MVC (model-view-controller) libraries

User-service – Internal application used for connecting Aurora to internal IT Operations ticketing system for user management

Acronyms

API – Application Programming Interface

AWS – Amazon Web Services

BI – Business Intelligence. MSRS’s current BI tool is Tableau

IDP – Identity Provider

QA – Quality Assurance

RDS – Amazon Relational Database Service

SSO – Single Sign On

UI – User Interface

WCAG 2.0 – Web Content Accessibility Guidelines version 2.0

SECTION 2 – SUMMARY OF SCOPE

1. Project Overview and Goals.

Project Overview

Minnesota State Retirement System (MSRS) and the State of Minnesota (State) seek to modernize and upgrade their primary suite of business applications. This will include eliminating the dependency on WebSphere, separating their monolithic application into a service-based suite of smaller applications, eliminating vulnerable UI libraries as the UI is modernized, and building a suite of APIs that will allow for integration with third-party applications. The goal of this project is to select a contractor that will be creating custom software.

Goals (Technical)

1. Transition off of WebSphere batch
2. Design and implementation of service-based application backend
3. Design and implementation of modern web frontend
4. Data design to support BI tools and future reporting capabilities

Goals (Business)

1. Reduce software licensing costs
2. Faster deployment cycles of smaller applications
3. Easier integration of third party applications
4. Easier testing of individual components
5. Support for BI tools and reporting capabilities

Environment Overview

MSRS's primary business application is a suite of custom java applications, consisting of three major deployable applications. All applications use a shared Postgres database, share data model and business logic code, and are deployed to AWS.

Aurora is the primary internally-facing application. It is deployed to TomEE and mainly uses a Spring MVC pattern, though there is some very old code (10+ years old) that uses a MainServlet controller pattern. The UI consists of JSPs with Apache Tiles and JQuery/JQueryUI. Aurora is only accessible through MSRS's identity management portal via SSO. Authorization is controlled by a database table internal to the application.

Account Online is an externally facing application deployed to TomEE that uses a Spring MVC pattern, along with JSPs, JQuery, and Bootstrap 4. Account Online has an authentication/authorization system that uses Spring Security, and stores credentials in its internal database. Account Online does use MFA and outbound REST calls to support certain features (Text MFA, CAPTCHA, document management integration).

Aurora Batch is the third major deployable. It is built as an ear file and deployed to WebSphere. Batch jobs are controlled and executed by the WebSphere batch system, and the custom batch code is tightly coupled to the WebSphere batch libraries and architecture. There are approximately 150 custom batch jobs built into the Aurora Batch system.

There are also a couple of minor deployable applications that are deployed to TomEE for more specialized purposes. Batch-integration is primarily a wrapper around spring-integration that handles watching for inbound data files and kicking off the appropriate batch jobs. Soap-services handles an integration between Docuware (MSRS's document management system) and Aurora. User-service handles an integration between our IT Operations ticketing system and Aurora.

The goal of this RFP is to evaluate and select a contractor that will provide a solution-based approach to the project. The State is asking Responders to propose their solutions and tasks to be performed to deliver their solution. The Scope of Work below is described at a high level. MSRS desires to:

- Migrate all batch jobs off of WebSphere.
- Deprecate code that does not use the Spring MVC pattern, and would like to eliminate older/vulnerable UI library dependencies, specifically jQueryUI and associated libraries. As such, MSRS would like to migrate its UI to a modern framework (such as Angular, React, or Vue).
- Migrate or rebuild its existing backend code into a suite of REST services to support its UI frontend and to support current and future integration with third-party software.

MSRS's systems are hosted at AWS on EC2 instances and leverage some AWS services, notably RDS for database services. The selected contractor will integrate seamlessly with MSRS systems located both on-prem and cloud-based, including but not exclusively: on-prem document management system (Docuware), on-prem correspondence management system (Napersoft), on-prem print services, on-prem Exchange server (slated to move to cloud in 2023), on-prem Financial Reporting application (Great Plains), and various file exchange-based integrations with external partners.

In scope

- All existing batch jobs
- Aurora and Account Online UI screens
- Business and service logic changes, as necessary to support new architectures

- Data model changes, as necessary to support new architectures (may include partitioning of databases).
- Infrastructure/architectural design (examples may include: message brokers, containerization and orchestration, service gateways)

Out of scope

- Changes to existing integrations (except where necessary to work with new code)
- Changes to IDP portal or other deployed MSRS software
- Implementation and management of infrastructure (MSRS staff will write necessary Chef/Terraform)

MSRS expects to receive Responses with a project plan that provides a scope and sequence of approach with an overall project timeline. Listed below are some high-level activities that MSRS expects to be addressed.

Activities and Deliverables

Business Goals	Activities
Reduce software licensing costs	<ol style="list-style-type: none"> 1. Complete transition off of WebSphere batch <ol style="list-style-type: none"> a. Technical design and Architecture, taking into consideration scalability and performance spikes necessary for batch b. Architectural and deployment recommendations, related to cloud-native services, containers, and orchestration c. Implementation of necessary batch jobs in new framework d. Implementation of supporting code (file streams, encryption/decryption) as necessary
Faster deployment cycles of smaller applications	<ol style="list-style-type: none"> 1. Architectural and technical design to support service-based architecture <ol style="list-style-type: none"> a. Design must include any data model changes to support a service-based architecture b. Design must include recommendations for service discovery, service registry, and gateway, as necessary c. Design must include transaction management for distributed transactions, as necessary d. Design must include deployment recommendations, including container orchestration (if recommended)

	<ul style="list-style-type: none"> e. Design must include programming language recommendations (Java, Node, or otherwise) f. Design must handle authentication and authorization based on role g. Design must incorporate use by batch system as well as web front end h. Design must include use by internally-facing, externally-facing, and third-party (external) applications <ol style="list-style-type: none"> 2. Architectural and technical design of web front-end <ul style="list-style-type: none"> a. Design must be responsive b. Design must be modular c. Design must handle authorization based on role d. Design must be based on current, supported technologies and use widely-available frameworks 3. Implementation of services backend 4. Implementation of modern web front-end
Easier integration of third party applications	<ol style="list-style-type: none"> 1. Implementation of services backend 2. Documentation of API endpoints and other relevant components
Easier testing of individual components	<ol style="list-style-type: none"> 1. Implementation of test automation to support new application designs <ul style="list-style-type: none"> a. Must include patterns and recommendations for testing APIs b. Must include patterns and recommendations for testing new front end
Data modeling to support BI tools and future reporting	<ol style="list-style-type: none"> 1. Technical and data design to support BI tool(s) and other reporting capabilities (may include designing a data warehouse) 2. Data migration plan into new data design

Contractor expectations

The selected contractor will:

1. Work closely with MSRS IT staff in a co-development model
2. Plan to use the same base technology stack as MSRS currently uses, including Java, Spring, and JavaScript
3. Use an agile product development model (includes agile-related frameworks such as Scrum, Kanban, or others)

4. Bring for approval all architectural and technical designs to the MSRS Architecture Review Board, Dev/QA Supervisor, or other delegated approvers
5. Meet MSRS standards for code quality and security for all implementations completed by contract staff
6. Bring for approval all infrastructure designs and recommendations to MSRS's Architecture Review Board and IT Operations Team
7. Bring for approval test automation designs to the MSRS QA Team and Supervisor
8. Meet or exceed WCAG 2.0 AA compliance for all website designs and implementations
9. Propose only data file formats for storage or interchange that use open standards, not proprietary formats
10. Propose only the use of open schemas for any APIs developed
11. Propose only architectures which are vendor and product agnostic

MSRS Expectations

MSRS will assign to this project to work in conjunction with the contractor no fewer than:

- a) 4 FTE Developers
- b) 1 FTE manual QA tester
- c) 0.5 FTE automation tester
- d) 0.5 FTE Business Analyst

SECTION 3 – PROPOSAL INSTRUCTIONS AND ADDITIONAL INFORMATION

1. Anticipated Contract Term.

The term of this contract is anticipated to be from July 28, 2023 to July 27, 2025, with the option to extend up to an additional (3) three years in increments determined by the State.

2. Question and Answer Instructions.

MSRS anticipates that the answers to questions will be provided by June 1, 2023 at <https://www.msrs.state.mn.us/vendors> under Current MSRS Opportunities. MSRS is not obligated to answer questions submitted after the question due date and time; however, MSRS reserves the right to answer questions received after this date if it will improve the RFP.

Only personnel listed above are authorized to discuss this solicitation with Responders. Contact regarding this solicitation with any personnel not listed above could result in disqualification. This provision is not intended to prevent Responders from seeking guidance from state procurement assistance programs regarding general procurement questions.

If a Responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the solicitation, please immediately notify kris.wenner@msrs.us in writing of such error and request modification or clarification of the document.

SECTION 4 – PROPOSAL CONTENT

Please submit the following information:

1. **Work Plan and Project Objectives.** Responder should provide a statement of the objectives, goals, and tasks to show or demonstrate the Responder's view and understanding of the nature of the contract. Responder should provide a description of the deliverables to be provided by the Responder along with a detailed work plan that identifies the major tasks to be accomplished and be used as a scheduling and managing tool.
2. **Qualifications and Experience.** Responder should provide an outline of background and experience with examples

of similar work done by the Responder and a list of personnel who will conduct the project, detailing their training and work experience. Provide resumes of the key staff who will be assigned the work under this contract. Post contract award, there may be adjustments made to the key staff from the Response proposal; however, these adjustments shall be considered only upon written request by the MSRS and shall be at the sole discretion of the State. Resumes or other information about project personnel should not, if possible, contain personal telephone numbers, home addresses, or home email addresses. If it is necessary to include personal contact information, please clearly indicate in the response that personal contact information is being provided.

Response must demonstrate experience with and knowledge of the following:

- Spring batch
- WCAG 2.0/2.1 accessibility standards
- Responsive UI design
- Agile software development methodologies

3. **References.** Responder should complete and submit "Attachment E: Reference Form" with their response. Responder should submit three completed reference forms with each reference's company name and contact information with their response. Once Responder's response is received, the solicitation Administrator will send the same form to Responder's reference(s) for each reference to fill out and return to kris.wenner@state.msrs.us.
4. **Cost Detail.** Complete and submit Attachment C, "Cost Proposal Pricing Template," attached to this solicitation.

Responder must separate their cost proposal into Personnel Costs and Non-Personnel Costs. Non-Personnel Costs must include the cost of any third-party software licenses for two years (the term of the contract) and any other costs recommended or required by the vendor to operate the solution for the duration of two years. Any other costs shall be included as a part of personnel hourly rates. Costs must be detailed with an explanation of the cost (Attachment C).

Personnel; composition by role

Responders shall include hourly rates for each staff person assigned to this project that will be providing assistance and management of the contract. Include in hourly rate **all** costs, including:

- Actual wages of the contractor employees
- Fringe benefit costs, including employee taxes and insurance costs.
- Any additional expenses (i.e. travel, lodging)

Team Composition

For each staff person assigned to the project, Responders shall include a role title, brief role description, and a rate per hour. For all roles, Responder shall include actual or representative resumes detailing experience, training, and skillset. For all roles considered "Leadership," Responder shall include names of proposed personnel along with resumes. MSRS considers the following to be a non-exhaustive list of leadership roles: Project/Program Manager; Work Stream Lead; Architect/Lead Architect; Team Lead; Engagement/Delivery Manager; other roles with Manager or Lead in the title.

If the Responder proposes as part of the solution to provide Third Party Software, Software licenses shall be provided for a firm fixed price for the first two years which shall be listed in the Cost Proposal. The software licenses fees will be paid upon successful installation and acceptance of the software. The costs in the proposal shall indicate the proposed price for providing the software and services for all functional areas of the Aurora system. The price shall include custom developed application software, third-party software and annual licenses and product upgrade fees for a period of two years.

MSRS will not pay for any additional items or services whether omitted intentionally or unintentionally from the Cost

Proposal. Any part of the solution not provided separately will be assumed included in the cost. Mark-ups are not allowed on Subcontractor costs and supplies. Cost information and assumptions shall be provided only in the Cost Proposal. If software part of the proposed solution, cost proposals will be scored by adding the total cost of personnel plus the total cost of any required third-party software licenses and other costs recommend or required to operate the solution for two years.

The Overall solution cost total amount will be used for the cost score whether or not the Responder has software licenses as part of their proposed solution.

5. License Agreements, Maintenance Agreements, or Other Terms and Conditions.

Responder must provide any license agreements, maintenance agreements, or any other terms and conditions relevant to the work under a resulting contract. Review and approval by the State will be required prior to contract execution. In the event Responder fails to comply with this provision, Responder agrees that it will not seek to enforce terms and conditions of any such agreement against the State. Further, failure to provide any of the pertinent documents upon request may result in the State not agreeing to sign any additional documents, rejecting your response, or cancelling the award. Submit all requested documentation, including, but not limited to, the following documents:

- Attachment A: Responder Declarations
- Attachment B: Exceptions to State's Standard Terms and Conditions
- Attachment C: Cost Proposal Pricing Template
- Attachment D: Responder Forms
 - a. Veterans Preference Form (If Applicable)
 - b. Workforce Certification
- Equal Pay Certificate Form
- Attachment E: Reference Form

DO NOT INCLUDE Non-Public/Trade Secret data (as defined by Minn. Stat. § 13.37).

SECTION 5 – EVALUATION PROCEDURE AND CRITERIA

MSRS will conduct an evaluation of responses to this solicitation using the two-tier scoring methodology described below.

1. TIER 1

1.1 Phase 1 - Responsiveness and Pass/Fail Requirements.

The purpose of this phase is to determine if each response complies with mandatory, material and technical requirements. MSRS will first review each proposal for responsiveness to determine if the Responder satisfies all mandatory requirements. MSRS will evaluate these requirements on a pass/fail basis.

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

- Responses must be received by the due date and time specified in this RFP.
- Responder is not currently debarred.

1.2 Phase 2 - Evaluate Responses. Only responses found to have met Phase I criteria will be considered in Phase II.

In Tier 1, responses will be rated as follows and the factors and weighting on which responses will be judged are:

- Qualification, Experience and Work Plan 900 points
- Cost Detail 100 points
1,000 points
- Preference Points (if applicable) 60 points (in addition to 1,000 available)

The Cost Proposal with the lowest cost receives 100 points. Other Cost Proposals are evaluated according to this formula:

$$\frac{\text{Amount of Cost Proposal with Lowest Cost}}{\text{Amount of Responder's Cost Proposal}} \times \text{Maximum Price Points (100)}$$

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

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

TIER 2

- 2.1 Phase 1 - Evaluate Responders. All Responders' scores will be re-set to zero prior to beginning Tier 2.
- 2.2 Interviews. All Responders that advance to Tier 2 will be invited to present and demonstrate their proposed solution virtually. The meeting invitation will contain a Zoom link with an agenda of interview questions for the interviews at least one week prior. Selected finalists will be given the same amount of time and asked the same questions.

In Tier 2, Responders will be rated as follows and the factors and weighting on which responses will be judged are:

- References 200 points
- Interview and Demonstration 400 points
- Cost Detail 400 points
1,000 points
- Preference Points (if applicable) 60 points (in addition to 1,000 available)

The Cost Proposal with the lowest cost receives 400 points. Other Cost Proposals are evaluated according to this formula:

$$\frac{\text{Amount of Cost Proposal with Lowest Cost}}{\text{Amount of Responder's Cost Proposal}} \times \text{Maximum Price Points (400)}$$

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

- 2.3 Phase 2 - Select Finalist(s). MSRS will make its selection based on best value, as determined by this evaluation process. Each Responder will be ranked based on each Responder's Tier 2 total score. MSRS will begin negotiating with the highest scoring Responder in Tier 2. MSRS reserves the right to pursue

negotiations on any exception taken to the State's standard terms and conditions. In the event that negotiated terms cannot be reached, the State reserves the right to terminate negotiations and begin negotiating with the next highest scoring Responder.

MSRS assumes no liability for risks or payment of expenses incurred by Responder in preparing and submitting proposals or if any expenses incurred in the interview of finalists prior to the contract award. All materials submitted in response to this RFP will become property of the State and MSRS. Materials received will be considered public information and will be open to public inspection with the Minnesota Government Data Practices Act *after* the contract negotiation process is complete. It is anticipated that the evaluation and selection (contract execution) will be completed by July 28, 2023.

SECTION 6 – SOLICITATION TERMS

1. Competition in Responding

The State and MSRS desires open and fair competition. Questions from Responders regarding any of the requirements of the solicitation must be submitted in writing to the solicitation Administrator listed in the solicitation before the due date and time. If changes are made the State will issue an addendum.

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

2. Addenda to the Solicitation

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

3. Data Security - Foreign Outsourcing of Work is Prohibited

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

4. Joint Ventures

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

5. Withdrawing Response

A Responder may withdraw its response prior to the due date and time of the solicitation. Responder may withdraw its response by notifying kris.wenner@msrs.us in writing of the desire to withdraw.

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

6. Rights Reserved

The State reserves the right to:

- Reject any and all responses received;
- Waive or modify any informalities, irregularities, or inconsistencies in the responses received;
- Negotiate with the highest scoring Responder[s];
- Terminate negotiations and select the next response providing the best value for the State;
- Consider documented past performance resulting from a State contract may be considered in the evaluation process;

- Short list the highest scoring Responders;
- Require Responders to conduct presentations, demonstrations, or submit samples;
- Interview key personnel or references;
- Request a best and final offer from one or more Responders;
- The State reserves the right to request additional information ; and
- The State reserves the right to use estimated usage or scenarios for the purpose of conducting pricing evaluations. The State reserves the right to modify scenarios, and to request or add additional scenarios for the evaluation.

7. Samples and Demonstrations

Upon request, Responders are to provide samples to the State at no charge. Except for those destroyed or mutilated in testing, the State will return samples if requested and at the Responder's expense. All costs to conduct and associated with a demonstration will be the sole responsibility of the Responder.

8. Responses are Nonpublic during Evaluation Process

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

9. Trade Secret Information

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

10. Conditions of Offer

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

11. Award

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

12. Requirements Prior to Contract Execution

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

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

Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, businesses that are eligible and certified by the State as targeted group (TG) businesses, economically disadvantaged (ED) businesses, and veteran-owned businesses will receive points equal to 6% percent of the total points available as preference.

For TG/ED/VO certification and eligibility information visit the Office of Equity in Procurement website at <https://mn.gov/admin/business/vendor-info/oep/> or call the Division’s Helpline at 651.296.2600.

14. Reciprocity

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

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ATTACHMENT A: RESPONDER DECLARATIONS

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

- A. **Response Contents.** The information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the Responder to suspension or debarment proceedings as well as other remedies available by law
- B. **Authorized Signature.** This Declaration is signed by the appropriate person(s), with the authority to contractually bind the Responder, as required by applicable articles, bylaws, resolutions, minutes, and ordinances.
- C. **Non-Collusion Certification.**
 - 1. The Proposal has been arrived at by the Responder independently and has been submitted without collusion and without any agreement, understanding or planned common course of action with any other vendor designed to limit fair or open competition; and
 - 2. The contents of the Response have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any other individual prior to the due date and time of this solicitation. Any evidence of collusion among Responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.
- D. **Organizational Conflicts of Interest.** To the best of Responder's knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons,
 - 1. a vendor is unable or potentially unable to render impartial assistance or advice to the State;
 - 2. the vendor's objectivity in performing the contract work is or might be otherwise impaired; or
 - 3. the vendor has an unfair competitive advantage.

If after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the State's Chief Procurement Officer which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to OSP, the State may terminate the contract for default. Organizational conflicts of interest terms apply to any subcontractors for this work.

- E. **Certification Regarding Lobbying.** For State of Minnesota Contracts and Grants over \$100,000, the 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

- F. **Copyrighted Material Waiver.** By signing its Response, the Responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response.
- G. **Diverse Spend Reporting.** The Sample Contract contains a clause for Diverse Spend Reporting. When this clause applies, Contractor will be required to register in a free portal to report diverse spend. Please see [Diverse Spend Reporting Frequently Asked Questions](#) for additional information.

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

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Phone Number: _____

Email Address: _____

ATTACHMENT B: EXCEPTIONS TO STATE’S TERMS AND CONDITIONS

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

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

INSTRUCTIONS: A responder must explicitly list all exceptions to State’s terms and conditions, if any (including those found in the attached Sample Contract). Reference the clause number and page number of the State's term and condition for each of a responder’s exceptions. If no exceptions exist, state "NONE" specifically on the form below. Whether or not exceptions are taken, the Responder must sign and date this form and submit it as part of their response. *(Add additional pages if necessary.)*

Clause and Page Number	Suggested Change to Clause	Explanation or Justification

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

Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT D: RESPONDER FORMS

**STATE OF MINNESOTA
VETERAN-OWNED PREFERENCE FORM**

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

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

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

or

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

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

Claim the Preference

By signing below, I confirm that:

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

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

or

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

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone: _____

Printed Name: _____ Title: _____

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

Workforce and Equal Pay Declaration Page

This form is **required for all businesses** executing government contracts under the following:

Select one:

- Businesses executing a contract with **State or Metropolitan agencies** in excess of \$100,000 ([Workforce Certificate](#)) and if applicable \$500,000 ([Equal Pay Certificate](#))
- Businesses executing a contract with **University of Minnesota** for general obligation bond funded capital projects in excess of \$100,000 ([Workforce Certificate](#)) and if applicable \$500,000 ([Equal Pay Certificate](#))
- Businesses executing a contract with **Political Subdivisions** for general obligation bond funded capital projects in excess of \$250,000 ([Workforce Certificate](#)) and if applicable \$1,000,000 ([Equal Pay Certificate](#))

Select all that apply:

We are a Certificate holder:

- Workforce Certificate under the name: _____
- Equal Pay Certificate under the name: _____

We are applying/have applied for the following certificate(s):

- Workforce Certificate Application date (MM/DD/YYYY): _____
- Equal Pay Certificate Application date (MM/DD/YYYY): _____

We have not applied for one or both certificates:

- Our Company does not yet have a Workforce Certificate or Equal Pay Certificate. We acknowledge that a Workforce and, if applicable, Equal Pay Certificate, or approved exemption by MDHR is required before a contract can be executed.

We are Exempt:

- We attest to MDHR that we have not employed 40 or more employees on a single day during the prior 12 months in Minnesota or the state in where we have our primary place of business. MDHR may request the names of our employees during the previous 12 months, the date of separation, if applicable, and the current employment status and count.

Business Information

Vendor/Supplier ID	Business Name	Name of Contracting Agency
Authorized Signatory Name	Title	Date
Signature	Email	Phone

For assistance with this form, email the Minnesota Department of Human Rights Compliance.MDHR@state.mn.us

ATTACHMENT E: REFERENCE FORM

Responder/Company Name:

Contact Name:

Address:

Email:

Phone Number:

1. What was the project the vendor worked on for you? Have you used them for other projects?
2. What was the planned project budget, vendor's proposed cost and final project cost? If there was a difference, what were the reasons?
3. What was the planned project timeframe, vendor's proposed timeline and final project timeline? If there was a difference, what were the reasons?
4. Was the vendor proactive in resolving surprises, limitations and issues with quality, delivery and personnel? Were the resolutions to your satisfaction?
5. How was training handled by the vendor (end users and IT)? How well did the end of project transition to your employees go (transition of ownership, stability, employee impact)?
6. Is the system delivered by the vendor supportable, maintainable and extendable by your staff?
7. How well did the vendor's goods and services (code and deliverables) meet the quality and technical expectations of your IT staff?
8. Would you hire this vendor again? If so, what would you do (or have the vendor do) differently?
9. If MSRS hires this vendor, what recommendations would you give to ensure a successful project?
10. Would you care to provide any additional comments?



State of Minnesota Contract

SWIFT Contract No.:

This Contract is between the State of Minnesota, acting through the Executive Director of the Minnesota State Retirement System, 60 Empire Drive, St. Paul, Minnesota, 55103 (“MSRS” or “State”) and _____ whose designated business address is _____ (“Contractor”). State and Contractor may be referred to jointly as “Parties.”

Recitals

1. State issued a solicitation identified as Aurora Modernization RFP 75 on May 15, 2023 for Aurora Modernization (“Solicitation”);
2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and
3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract

1.1 Effective date. _____, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State’s Authorized Representative to begin the work.

1.2 Expiration date. _____, or until all obligations have been satisfactorily fulfilled, whichever occurs first. The contract may be extended for up to an additional _____, in increments as determined by the State, through a duly executed amendment.

2. Contractor’s Duties

The Contractor shall perform all duties described in this Contract to the satisfaction of the State.

The Contractor, who is not a State employee, shall:

3. Representations and Warranties

3.1 Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law, the State is empowered to engage such assistance as deemed necessary.

3.2 Contractor warrants that it is duly qualified and shall perform its obligations under this Contract in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor's industry, trade, or profession, and in accordance with the specifications set forth in this Contract, to the satisfaction of the State.

3.3 Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms.

4. Time

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

5. Consideration and Payment

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

5.1.1 Compensation. The Contractor will be paid _____.

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

5.2 Payment.

5.2.1 Invoices. The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the goods received or services actually performed, and the State's Authorized Representative accepts the invoiced goods or services.

5.2.2 Contractor will not submit invoices more frequent than on a monthly basis. Summary type invoicing must include these fields:

- Purchase Order Number
- Invoice Number
- MSRS Authorized Representative
- Dates and hours of service
- Description of specific task or deliverable
- Explanation of work performed per charge indicated on the invoice

Send invoices by E-mail to:

msrs_ap@msrs.us (In the subject line include the Contract number and the name of MSRS' Authorized Representative.)

Or

Minnesota State Retirement System
Accounts Payable
60 Empire Drive, Suite 300
St. Paul, Minnesota 55103-3000

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

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

6. Authorized Representative

MSRS's Authorized Representative is _____, or his/her/their successor or delegate, and has the responsibility to monitor the Contractor's performance.

Contractor's Authorized Representative. The Contractor's Authorized Representative is _____ at the following business address and telephone number: _____, or his/her/their successor. If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the State.

7. Exhibits

The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:

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

Signatures as required by the State of Minnesota

Exhibit A: Contract Terms

1. Prompt Payment and Invoicing.

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

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

Invoicing. The invoice must be submitted as described in the Contract Consideration and Payment Section 5.2.2. See Section 5.2.2, for minimum invoice requirements.

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

2.1 Assignment. The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.

2.2 Amendments. Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.

2.3 Waiver. If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

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

3. Termination.

3.1 Termination for Convenience. The State or Commissioner of Administration may cancel this Contract at any time, with or without cause, upon 30 days’ written notice to the Contractor. Upon termination for convenience, the Contractor will be entitled to payment, determined on a pro rata basis, for services or goods satisfactorily performed or delivered.

3.2 Termination for Breach. The State may terminate this Contract, with cause, upon 30 days’ written notice to Contractor of the alleged breach and opportunity to cure. If after 30 days, the alleged breach has not been remedied, the State may immediately terminate the Contract.

3.3 Termination for Insufficient Funding. The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Contract. Termination must be by written notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that dedicated funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding

source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding. This notice will be provided within a reasonable time of the State's receiving notice.

4. Force Majeure.

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

5. Indemnification.

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

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

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

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

6. Governing Law, Jurisdiction, and Venue.

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

7. Foreign Outsourcing of Work Prohibited.

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

8. Subcontracting and Subcontract Payment.

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

After the effective date of the Contract, the Contractor shall not, without prior written approval of the State's Authorized Representative, subcontract for the performance of any of the Contractor's obligations that were not already approved for subcontracting when the Contract was awarded. During this Contract, if an approved

subcontractor is determined to be performing unsatisfactorily by the State's Authorized Representative, the Contractor will receive written notification that the subcontractor can no longer be used for this Contract.

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

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

9. Data Disclosure.

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

10. Government Data Practices.

The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (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 Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State.

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

11. Intellectual Property Rights.

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

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

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

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

11.2 Ownership. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this Contract. The Documents shall be the exclusive property of the State and all such Documents must be

immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State’s ownership interest in the Works and Documents.

11.3 Pre-existing Intellectual Property. Each Party shall retain ownership of its respective Pre-Existing Intellectual Property. The Contractor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for Contractor’s Pre-Existing Intellectual Property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Contract.

11.4 Obligations.

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

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

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

12. Copyright.

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

13. Contractor’s Documents.

Any licensing and maintenance agreement, or any order-specific agreement or document, including any pre-installation, linked or “click through” agreement that is allowed by, referenced within or incorporated within the Contract whenever the Contract is used for a State procurement, whether directly by the Contractor or through a Contractor’s agent, subcontractor or reseller, is agreed to only to the extent the terms within any such agreement or document do not conflict with the Contract or applicable Minnesota or Federal law, and only to the extent that the terms do not modify, diminish or derogate the terms of the Contract or create an additional financial obligation to the State. Any such agreement or document must not be construed to deprive the State of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applicable to this Contract or afforded to the

State by Minnesota law. A State employee's decision to choose "accept" or an equivalent option associated with a "click-through" agreement does not constitute the State's concurrence or acceptance of terms, if such terms are in conflict with this section.

14. State Audits.

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

15. Diverse Spend Reporting.

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

16. Publicity and Endorsement.

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

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

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

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

18. Federal Funds.

18.1 Compliance with Federal Requirements. Federal money will be used or may potentially be used to pay for all or part of the goods, construction or services under the Contract. The Contractor is responsible for compliance with all federal requirements imposed on the funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.

18.2 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.

19. Contingency Fees Prohibited.

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

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

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

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

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

22. 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/VerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

23. Affirmative Action Requirements

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

23.1 Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.

23.2 General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.

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

AFFIRMATIVE ACTION FOR DISABLED WORKERS

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

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

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

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

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

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

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

24. Equal Pay Certification.

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

25. Survival of Terms.

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

Exhibit B: Insurance Requirements

1. Notice to Contractor.

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

2. Notice to Insurer.

- 2.1 The Contractor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

Insurance certificate holder should be addressed as follows:

Minnesota State Retirement System
Attention Kris Wenner, Contract Manager
60 Empire Drive, Suite 300
St. Paul, Minnesota 55103-3000

Or send by email to:
Kris.wenner@msrs.us

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

- 3.1 Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Contractor's performance under this Contract.
- 3.2 If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State;
- 3.3 Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 3.4 If Contractor is self-insured, a Certificate of Self-Insurance must be attached;

3.5 Contractor's policy(ies) shall include legal defense fees in addition to its policy limits with the exception of professional liability.

3.6 Contractor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.

3.7 An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

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

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

\$2,000,000 – per occurrence

\$2,000,000 – annual aggregate

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

The following coverages shall be included:

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

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

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

In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile.

Evidence of Subcontractor insurance shall be filed with the Contractor.

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

\$100,000 – Bodily Injury by Disease per employee

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

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

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

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

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

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

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

4.5 Network Security and Privacy Liability Insurance (or equivalent). The coverage may be endorsed on another form of liability coverage or written on a standalone policy. Contractor shall maintain insurance to cover claims which may arise from failure of Contractor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. Insurance minimum limits are as follows:

\$2,000,000 per occurrence
\$2,000,000 annual aggregate

The following coverage shall be included: State of Minnesota named as an Additional Insured unless the coverage is written under a Professional Liability policy.

4.6 Privacy Liability Insurance (or equivalent). The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The Contractor shall maintain insurance to cover claims which may arise from failure of the Contractor to ensure the security of not public data stored on the State's documents, including but not limited to paper, microfilms, microfiche, magnetic computer tapes, cassette tapes, photographic negatives, photos, hard disks, floppy disks, and carbon sheets, while in the Contractor's care, custody, and control. Insurance minimum limits are as follows:

\$2,000,000 - Per Occurrence
\$2,000,000 - Annual Aggregate

The following coverage shall be included: State of Minnesota named as an Additional Insured unless the coverage is written under a Professional Liability policy.

4.7 Property of Others Insurance (or equivalent). The Contractor shall maintain a Property insurance policy covering “All Risk” of direct physical loss or damage, or equivalent, including the perils of theft, flood, transit, earthquake, and pollution clean-up expense for property owned by the state that is in the Contractor’s care, custody, and control. Any deductible shall be the sole responsibility of the Contractor. Insurance **minimum** limits are as follows: The Contractor is solely responsible for the coverage equal to that of the actual cash value of state-owned property in the Contractor’s care, custody, and control at any given point in time.

Exhibit C: Specifications, Duties, and Scope of Work

This page is “Intentionally Left Blank” for Contract Sample purposes. After the contract has been awarded to the selected contractor, the Specifications, Duties, and Scope of Work will be on this page as Exhibit C and it will become part of the actual, executed contract.

Exhibit D: Price

This page is "Intentionally Left Blank" for Contract Sample purposes. After the contract has been awarded to the selected contractor, the Pricing will be on this page as Exhibit D and it will become part of the actual, executed contract.