

STATE OF NEVADA
TERMS AND CONDITIONS FOR SERVICES

The information contained in this attachment is part of the solicitation and does not need to be returned with a vendor proposal.

1. PROCUREMENT

1.1. AUTHORITY

- 1.1.1. This procurement is conducted in accordance with NRS Chapter 333 and NAC Chapter 333.
- 1.1.2. Any contract(s) awarded from this solicitation is a “state purchasing contract.”
- 1.1.3. As used herein, “the State” refers to the Executive Department of the State Government of Nevada as the soliciting and awarding entity. Where a solicitation is on behalf of additional users or agencies and/or part of a cooperative solicitation, the term collectively includes those entities as well.

1.2. SINGLE POINT OF CONTACT

- 1.2.1. The single point of contact for this solicitation is identified on page 1.
- 1.2.2. Upon issuance of the solicitation, other employees and representatives of the agencies identified in the solicitation shall not answer questions or otherwise discuss the contents of the solicitation and/or attachments with any prospective vendors or their representatives.
- 1.2.3. Vendors and/or their representatives shall only contact the single point of contract regarding this solicitation until after a notice of award (NOA) has been issued.
- 1.2.4. Failure to observe this restriction may result in disqualification of a proposal per NAC 333.155(3).
- 1.2.5. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

1.3. WRITTEN QUESTIONS AND ANSWERS

- 1.3.1. All questions regarding this solicitation shall be submitted using the Bid Q&A feature in <https://NevadaEPro.com> by the deadline listed in the solicitation timeline.
- 1.3.2. If questions and answers require a material change to the solicitation, an amendment will be posted in NevadaEPro, and vendors should receive email notification.
- 1.3.3. To access the Bid Q&A.
 - A. Log into ‘Seller’ account on NevadaEPro.
 - B. Click the ‘Bids’ tab in the header.
 - C. Click ‘View’ under ‘Bid Q&A’ on the appropriate bid in the ‘Open Bids’ section.

1.4. SOLICITATION

- 1.4.1. Proposals shall be presented in a format that corresponds to and references sections outlined in a solicitation and shall be presented in the order requested for ease of evaluation.
- 1.4.2. Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy requirements of a solicitation.
- 1.4.3. If a vendor changes any material language, proposal may be deemed non-responsive per NRS 333.311.
- 1.4.4. The State reserves the right to reject any or all proposals received prior to contract award.
- 1.4.5. The State reserves the right to limit the scope of work prior to award, if deemed in the best interest of the State.
- 1.4.6. The State reserves the right to alter, amend, or modify any provisions of this solicitation, or to withdraw this solicitation, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the State to do so.
- 1.4.7. Proposals may be modified or withdrawn prior to opening. Withdrawals received after opening shall not be considered except as authorized by NRS 333.350(3).
- 1.4.8. Submitted proposals become property of the State, selection or rejection does not affect this right.
- 1.4.9. Proposals which appear unrealistic in terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend complexity and risk of the project, may be rejected.
- 1.4.10. The State is not liable for any costs incurred by vendors prior to entering a formal contract.
- 1.4.11. Costs of developing a proposal or any other such expenses incurred by a vendor in responding to a solicitation, are entirely the responsibility of the vendor, and shall not be reimbursed in any manner by the State.

- 1.4.12. Any person who believes a solicitation contains irregularities, a lack of clarity, unnecessarily restrictive specifications, or unnecessary limits to competition shall notify the single point of contact, in writing, as soon as possible, so that corrective addenda may be furnished in a timely manner to all vendors if appropriate.
- 1.4.13. The State reserves the right to waive informalities and minor irregularities in proposals received.
- 1.4.14. The State shall not be obligated to accept the lowest priced proposal, however, shall make an award in the best interest of the State after all factors have been evaluated.
- 1.4.15. The evaluation committee may solicit information from any available source concerning any aspect of a proposal and seek and review any other information deemed pertinent to the evaluation process.
- 1.4.16. The State reserves the right to reject any proposal based upon vendor prior history with the State or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.
- 1.4.17. Clarification discussions may, at State sole option, be conducted with vendors who submit proposals determined to be acceptable and competitive.
- 1.4.18. Vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals.
- 1.4.19. Revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
- 1.4.20. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing vendors.
- 1.4.21. Any modifications made to a proposal during negotiations shall be included as part of the contract.
- 1.4.22. Proposals from employees of the State of Nevada shall be considered in as much as they do not conflict with the State Administrative Manual (SAM), NRS Chapter 281, and NRS Chapter 284.
- 1.4.23. The Administrator shall apply the preferences stated in NRS 333.290 and 333.410 to the extent applicable.
 - A. NRS 333.290 grants a preference to materials and supplies that can be supplied from a “charitable, reformatory or penal institution of the State” that produces such goods or services through the labor of inmates.
 - B. NRS 333.410 grants a preference to commodities or services that institutions of the State are prepared to supply through the labor of inmates.
 - C. The Administrator reserves the right to secure these goods, materials or supplies from any such eligible institution, if they can be secured of equal quality and at prices not higher than those of the lowest acceptable bid received in response to this solicitation.
- 1.4.24. Prices offered by a vendor in a proposal are an irrevocable offer for the term of the contract and any contract extensions.
- 1.4.25. Vendor agrees to provide purchased services at costs, rates and fees as set forth in a proposal submitted in response to a solicitation. No other costs, rates or fees shall be payable to awarded vendor for implementation of proposal.
- 1.4.26. Vendor shall not propose an alternative that would require the State to acquire hardware or software or change processes to function properly on vendor system unless vendor included a clear description of such proposed alternatives and clearly mark any descriptive material to show proposed alternative. An acceptable alternative is one the State considers satisfactory in meeting requirements of a solicitation. The State, at its sole discretion, shall determine if a proposed alternative meets the intent of an original solicitation requirement.
- 1.5. MATERIAL MISREPRESENTATION. Vendor understands and acknowledges that representations made in its proposal are material and important and shall be relied on by the State in evaluation of a proposal. Any misrepresentation by a vendor shall be treated as fraudulent concealment from the State of the true facts relating to the proposal.
- 1.6. PROPRIETARY INFORMATION/TRADE SECRETS
 - 1.6.1. As a potential contractor of a public entity, vendors are advised that full disclosure is required by law.
 - 1.6.2. If complete responses cannot be provided without referencing proprietary information, such information shall be provided in a separate attachment, cross-referenced to public attachments. Only proprietary information as defined in NRS 333.020(5) can be confidential.
 - 1.6.3. Specific references made to a section, page, and paragraph where proprietary information can be located shall be identified on *Confidentiality and Certification of Indemnification*.
 - 1.6.4. Vendors are required to submit written documentation in accordance with *Confidentiality and Certification of Indemnification* justifying confidential status.
 - 1.6.5. Not conforming to these requirements makes a proposal non-compliant and it may be rejected by the State.

1.7. ONLINE BIDDING

- 1.7.1. Pursuant to NRS 333.313, NevadaEPro, located at <https://NevadaEPro.com>, is the State online bidding system.
- 1.7.2. All official communication will be through NevadaEPro.
- 1.7.3. Vendors should check NevadaEPro frequently for matters affecting a solicitation prior to submitting a quote or proposal.
- 1.7.4. Failure to periodically check for updates does not release a vendor from requirements or information posted.
- 1.7.5. Failure to flag quote attachments as confidential in NevadaEPro that contain confidential information, trade secrets and/or proprietary information, shall constitute a complete waiver of any and all claims for damages caused by release of the information by the State.

1.8. ELECTRONIC QUOTE

- 1.8.1. Vendors shall submit quotes or proposals by using 'Create Quote' via NevadaEPro, the State electronic procurement website, located at <https://NevadaEPro.com>.
- 1.8.2. Refer to *Quote Instructions* attachment in NevadaEPro for instructions on how to submit a Quote.
- 1.8.3. Vendors shall provide pricing directly in NevadaEPro, or select 'See Quote Attachments' as appropriate.
- 1.8.4. Quotes or proposals shall be submitted before the date and time specified on bid in NevadaEPro.
- 1.8.5. Vendors may submit their quote or proposal any time prior to the deadline stated in NevadaEPro.
- 1.8.6. If dates/times specified in a document and dates/times specified in NevadaEPro conflict, dates/times in NevadaEPro shall prevail.
- 1.8.7. Quotes or proposals submitted as physical copies, email, or any submission method except NevadaEPro shall not be considered.
- 1.8.8. Vendor quote or proposal documents shall be uploaded as attachments to NevadaEPro quote.
- 1.8.9. Only quotes or proposals submitted through NevadaEPro will be considered for award.
- 1.8.10. Quotes improperly submitted as 'No Bid' in NevadaEPro may not be received by the State or considered for award.
- 1.8.11. Quotes or proposals that are not submitted by the opening date and time shall not be accepted.

2. AWARD

2.1. NOTICE OF INTENT TO AWARD

- 2.1.1. A letter of intent (LOI) shall be issued in accordance with NAC 333.170 notifying proposing vendors of the intent to award a contract to an identified vendor, pending successful negotiations.
- 2.1.2. Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached.
- 2.1.3. All information remains confidential until the issuance of the formal notice of award (NOA).
- 2.1.4. If contract negotiations cannot be concluded successfully, the State upon written notice to all proposing vendors may negotiate a contract with the next highest scoring vendor or withdraw the solicitation.

2.2. NOTICE OF AWARD

- 2.2.1. A notice of award (NOA) shall be issued in accordance with NAC 333.170.
- 2.2.2. Proposing vendors shall be notified via NevadaEPro a contract has been successfully negotiated.
- 2.2.3. Award is contingent upon the successful negotiation of final contract terms.
- 2.2.4. Any non-confidential information becomes available upon written request, and most is available in NevadaEPro.
- 2.2.5. Pursuant to NRS 333.370, the period in which a person who made an unsuccessful proposal may file a notice of appeal commences.
- 2.2.6. Any unsuccessful vendor may file an appeal in strict compliance with NRS 333.370 and NAC Chapter 333.

2.3. CONTRACT EXECUTION

- 2.3.1. If required pursuant to NRS 333.700, contracts shall not be effective unless and until approved by the Nevada State Board of Examiners (BOE).
- 2.3.2. The State reserves the right to negotiate final contract terms with any vendor selected per NAC 333.170.
- 2.3.3. The contract between the parties shall consist of the solicitation together with any modifications thereto, and the awarded vendor proposal, together with any modifications and clarifications thereto that are submitted at the request of the State during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence.

- A. Final executed contract
- B. Modifications and clarifications
- C. Solicitation and amendments
- D. Awarded vendor proposal

2.3.4. Specific exceptions to this general rule may be noted in a solicitation or final executed contract.

3. CONTRACT

3.1. THIRD PARTY BENEFICIARIES

- 3.1.1. Using agencies as defined in NRS 333.020(10) and other public entities as defined in NRS 333.469 and 333.470 are intended third party beneficiaries of any contract resulting from this solicitation and may join or use any contract resulting from this solicitation subject to Nevada law.
- 3.1.2. Public entities in other states or jurisdictions may join or use any resulting contract from this solicitation subject to cooperative contracting laws in their respective state or jurisdiction.
- 3.1.3. The State is not liable for obligations of any other entity which joins or uses any contract resulting from this solicitation.

3.2. ADMINISTRATIVE FEE

- 3.2.1. The State may implement an administrative fee of not more than 1% on contracts procured or negotiated by the State Purchasing Division pursuant to NRS 333.450.
- 3.2.2. This fee may be assessed over the time of the contract period.
- 3.2.3. Vendors will be provided 30 days written notice before fees are assessed.
- 3.2.4. Fees shall be paid quarterly, 45 days after the close of the quarter, on all purchases under the contract.

3.3. AWARD OF RELATED CONTRACTS

- 3.3.1. The State may undertake or award supplemental contracts for work related to a project or any portion thereof.
- 3.3.2. Contractor shall be bound to cooperate fully with such other contractors and the State in all cases.
- 3.3.3. All subcontractors shall be required to abide by this provision as a condition of the contract between the subcontractor and the prime contractor.

3.4. DISCRIMINATION

- 3.4.1. The State, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and federal Regulations, hereby notifies all bidders it will affirmatively ensure that for any contract entered into pursuant to this solicitation, all contractors will be afforded full opportunity to submit proposals and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP in consideration for award.
- 3.4.2. Pursuant to NRS Chapter 613 in connection with the performance of work under this contract, the contractor agrees not to unlawfully discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation apprenticeship.
- 3.4.3. The contractor further agrees to insert this provision in all subcontracts, hereunder, except subcontracts for standard commercial supplies or raw materials.

3.5. PROTECTION OF SENSITIVE INFORMATION

- 3.5.1. Confidential personal data shall be encrypted.
- 3.5.2. Any electronic transmission of personal information shall comply with NRS 603A.215 (2 & 3).
- 3.5.3. Sensitive data shall be encrypted in all newly developed applications.

- 3.6. **STATE OWNED PROPERTY.** Contractor shall be responsible for proper custody and care of any State-owned property furnished by the State for use in connection with performance of a contract and shall reimburse the State for any loss or damage.

3.7. INSPECTION/ACCEPTANCE/COMPLETION OF WORK

- 3.7.1. It is expressly understood and agreed all work done by Contractor shall be subject to inspection and acceptance by the State.
- 3.7.2. Progress inspections and approval by the State shall not forfeit the right to require correction of faulty workmanship or material at any time during work and warranty periods.
- 3.7.3. Nothing contained herein shall relieve Contractor of responsibility for proper installation and maintenance of work, materials and equipment required under the terms of the contract until all work has been completed and accepted by the State.
- 3.7.4. Prior to completion of all work, Contractor shall remove from premises all equipment and materials belonging to Contractor.
- 3.7.5. Upon completion of the work, Contractor shall leave site in a clean and neat condition satisfactory to the State.

3.8. RIGHT TO PUBLISH

- 3.8.1. All requests for publication or release of any information pertaining to a solicitation and any subsequent contract shall be in writing and sent to the head of the using agency or designee.
- 3.8.2. No announcement concerning award of a contract due to a solicitation can be made without prior written approval of the head of the using agency or designee.
- 3.8.3. As a result of selection of a vendor to supply requested services, the State is neither endorsing nor suggesting the vendor is the best or only solution.
- 3.8.4. Contractor shall not use, in its external advertising, marketing programs, or other promotional efforts, any data, pictures or other representation of any State facility, except with specific advance written authorization of the head of the using agency or designee.
- 3.8.5. Throughout the term of the contract, Contractor shall secure the written approval prior to the release of any information pertaining to work or activities covered by the contract.

3.9. TRAVEL

- 3.9.1. If part of the contract, will follow processes below.
- 3.9.2. All travel shall be approved in writing in advance by the State.
- 3.9.3. Requests for reimbursement of travel expenses shall be submitted on the State claim for travel expense form with original receipts for all expenses.
- 3.9.4. Travel expense form, with original signatures, shall be submitted with Contractor invoice.
- 3.9.5. Contractor shall be reimbursed travel expenses and per diem at rates allowed for State employees at time travel occurs.
- 3.9.6. State is not responsible for payment of any premium, deductible or assessments on insurance policies purchased by Contractor for a rental vehicle.

4. FEDERAL LAWS AND AUTHORITIES

- 4.1. CERTIFICATION. Any person who requests or receives a Federal contract, grant, loan, or cooperative agreement shall file with the using agency a certification that the person making the declaration has not made, and shall not make, any payment prohibited by subsection (a) of 31 U.S.C. 1352.

4.2. COMPLIANCE

- 4.2.1. Federal laws and authorities with which the awarded vendor shall be required to comply, as applicable, are listed here but are not meant to be exhaustive. Awarded vendors are responsible for an awareness of, and compliance with, State and federal laws and regulations.
- 4.2.2. Archeological and Historic Preservation Act of 1974, PL 93-291
- 4.2.3. Clean Air Act, 42 U.S.C. 7506(c)
- 4.2.4. Endangered Species Act 16 U.S.C. 1531, ET seq.
- 4.2.5. Executive Order 11593, Protection and Enhancement of the Cultural Environment
- 4.2.6. Executive Order 11988, Floodplain Management
- 4.2.7. Executive Order 11990, Protection of Wetlands
- 4.2.8. Farmland Protection Policy Act, 7 U.S.C. 4201 ET seq.
- 4.2.9. Fish and Wildlife Coordination Act, PL 85-624, as amended.
- 4.2.10. National Historic Preservation Act of 1966, PL 89-665, as amended.
- 4.2.11. Safe Drinking Water Act, Section 1424(e), PL 92-523, as amended.

- 4.2.12. Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended.
- 4.2.13. Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans
- 4.2.14. Age Discrimination Act, PL 94-135
- 4.2.15. Civil Rights Act of 1964, PL 88-352
- 4.2.16. Section 13 of PL 92-500, Prohibition against sex discrimination under the Federal Water Pollution Control Act
- 4.2.17. Executive Order 11246, Equal Employment Opportunity
- 4.2.18. Executive Orders 11625 and 12138, Women's and Minority Business Enterprise
- 4.2.19. Rehabilitation Act of 1973, PL 93, 112
- 4.2.20. Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646
- 4.2.21. Executive Order 12549 – Debarment and Suspension
- 4.2.22. Davis-Bacon Act 40 U.S.C. 3141-3148
- 4.2.23. Contract Work Hours and Safety Standards Act 40 U.S.C. 3701-3708
- 4.2.24. Rights to Inventions Made Under a Contract or Agreement 37 CFR §401.2(a)
- 4.2.25. Byrd Anti-Lobbying Amendment 31 U.S.C. 1352
- 4.2.26. Americans With Disabilities Act of 1990, PL 101-336
- 4.2.27. Health Insurance Portability and Accountability Act of 1996, PL 104-191
- 4.2.28. Equal Pay Act of 1963, PL 88-38
- 4.2.29. Genetic Information Nondiscrimination Act, PL 110-233

5. FINANCIAL

5.1. TAX EXEMPT. The State shall not be liable for Federal, State, or Local excise taxes per NRS 372.325.

5.2. BILLING

- 5.2.1. The State does not issue payment prior to receipt of goods or services.
- 5.2.2. Contractor shall bill the State as outlined in the approved contract and/or payment schedule.
- 5.2.3. Timeliness of Billing. The State is on a fiscal year calendar, running July 1 through June 30. All billings for dates of service prior to July 1 shall be submitted to the State no later than the first Friday in August of the same year. A billing submitted after the first Friday in August and processed as a stale claim pursuant to NRS 353.097, shall subject Contractor to an administrative fee not to exceed \$100.00. This is the estimate of additional costs to the State for processing the billing as a stale claim and this amount shall be deducted from the stale claim payment due Contractor.

5.3. PAYMENT

- 5.3.1. Upon review and acceptance by the State, payments for invoices are normally made within 45 – 60 days of receipt, providing all required information, documents and/or attachments have been received.
- 5.3.2. Pursuant to NRS 227.185 and NRS 333.450, the State shall pay claims for supplies, materials, equipment, and services electronically, unless determined by the State Controller that electronic payment would cause the payee to suffer undue hardship or extreme inconvenience.
- 5.3.3. Procurement Card Program. Program is issued through a major financial institution and treated like any other major credit card. Using agencies may desire to use card as a method of payment. No additional charges or fees shall be imposed for using card. Please indicate in *Vendor Information Response* if willing to accept this method of payment.