

TERMS AND CONDITIONS FOR SERVICES

The information contained in this Attachment does not need to be returned with vendor's proposal.

1. PROCUREMENT TERMS AND CONDITIONS

- 1.1 This procurement is being conducted in accordance with NRS Chapter 333 and NAC Chapter 333.
 - 1.1.1 Any person who believes the RFP 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.
 - 1.1.2 The State reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, 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.
 - 1.1.3 The State reserves the right to waive informalities and minor irregularities in proposals received.
 - 1.1.4 The State shall not be obligated to accept the lowest priced proposal, however, shall make an award in the best interest of the State of Nevada after all factors have been evaluated.
 - 1.1.5 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.
 - 1.1.6 The State reserves the right to reject any proposal based upon the vendor's 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.
 - 1.1.7 Clarification discussions may, at the State's sole option, be conducted with vendors who submit proposals determined to be acceptable and competitive.
 - 1.1.8 Vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals.
 - 1.1.9 Revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
 - 1.1.10 In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing vendors.
 - 1.1.11 Any modifications made to the original proposal during the best and final negotiations shall be included as part of the contract.
- 1.2 SINGLE POINT OF CONTACT
 - 1.2.1 The single point of contact for this RFP is identified on page 1.
 - 1.2.2 Upon issuance of the RFP, other employees and representatives of the agencies identified in the RFP shall not answer questions or otherwise discuss the contents of the RFP and/or Attachments with any prospective vendors or their representatives.
 - 1.2.3 Failure to observe this restriction may result in disqualification of any subsequent proposal per NAC 333.155(3).
 - 1.2.4 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 RFP shall be submitted using the Bid Q&A feature in NevadaEPro by the deadline listed in the RFP Timeline.
 - 1.3.2 If questions and answers require a material change to the Bid Solicitation, an Amendment will be posted in NevadaEPro and vendors will receive email notification.
 - 1.3.3 To access the Bid Q&A:
 - A. Log into your 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 NOTICE OF INTENT TO AWARD
 - 1.4.1 A Letter of Intent (LOI) shall be issued in accordance with NAC 333.170 notifying proposing vendors of the State's intent to award a contract to a vendor, pending successful negotiations.
 - 1.4.2 Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached.
 - 1.4.3 All information remains confidential until the issuance of the formal Notice of Award (NOA).

TERMS AND CONDITIONS FOR SERVICES

- 1.4.4 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 RFP.

1.5 NOTICE OF AWARD

- 1.5.1 A Notice of Award (NOA) shall be issued in accordance with NAC 333.170.
- 1.5.2 Proposing Vendors shall be notified via NevadaEPro a contract has been successfully negotiated, executed, and is awaiting approval of the Board of Examiners (BOE).
- 1.5.3 Any award is contingent upon the successful negotiation of final contract terms and upon approval of the BOE, when required.
- 1.5.4 Any non-confidential information becomes available upon written request.
- 1.5.5 Pursuant to NRS 333.370, the period in which a person who made an unsuccessful proposal may file a notice of appeal commences.
- 1.5.6 Any unsuccessful vendor may file an appeal in strict compliance with NRS 333.370 and NAC Chapter 333.

1.6 CONTRACT EXECUTION

- 1.6.1 Pursuant to NRS 333.700, any contract resulting from this RFP shall not be effective unless and until approved by the Nevada State Board of Examiners.

2. PROPOSAL TERMS AND CONDITIONS

2.1 SUBMISSION REQUIREMENTS

- 2.1.1 Pursuant to NRS 333.313, NevadaEPro, located at <https://NevadaEPro.com>, is the State's On-line bidding system.
- A. All official communication regarding this will be through NevadaEPro.
 - B. Vendors should check the NevadaEPro frequently matters affecting the RFP prior to submitting a proposal.
 - C. Vendor failure to periodically check for updates does not release vendor from requirements or information posted.
 - D. 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.
- 2.1.2 Vendors shall submit their proposals by using 'Create Quote' via NevadaEPro, the State electronic procurement website, located at <https://NevadaEPro.com>.
- A. Refer to *Quote Instructions* attachment in NevadaEPro for instructions on how to submit a Quote.
 - B. Vendors shall provide pricing directly in NevadaEPro, or select 'See Quote Attachments' as appropriate.
 - C. Proposals shall be submitted before the date and time specified on the General Tab of the Bid in NevadaEPro.
 - D. Vendors may submit their proposal any time prior to the deadline stated in NevadaEPro.
 - E. If dates and times specified in this document and dates and times specified in NevadaEPro conflict, the dates and times in NevadaEPro shall prevail.
 - F. Proposals submitted as physical copies, email, or any submission method except NevadaEPro shall not be considered.
 - G. Vendor proposal documents shall be uploaded as attachments to their NevadaEPro quote.
 - H. Only proposals submitted through NevadaEPro will be considered for award.
 - I. Proposals that are not submitted by the stated opening date and time shall not be accepted.
- 2.1.3 For ease of evaluation, proposals shall be presented in a format that corresponds to and references sections outlined within the RFP/Attachments and shall be presented in the order listed in Submission Checklist.
- 2.1.4 Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP.
- 2.1.5 If a vendor changes any material language, vendor response may be deemed non-responsive per NRS 333.311.
- 2.1.6 Vendor understands and acknowledges that the representations made in its proposal are material and important and shall be relied on by the State in its 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.

TERMS AND CONDITIONS FOR SERVICES

2.1.7 Proprietary Information/Trade Secrets

- A. As a potential contractor of a public entity, vendors are advised that full disclosure is required by law.
- B. If complete responses cannot be provided without referencing proprietary information, such information shall be provided in a separate attachment, cross-referenced to the public attachments. Only proprietary information as defined in NRS 333.020(5) can be confidential.
- C. Specific references made to the section, page, and paragraph where the proprietary information can be located shall be identified on *Confidentiality and Certification of Indemnification*.
- D. Vendors are required to submit written documentation in accordance with *Confidentiality and Certification of Indemnification* justifying confidential status.
- E. Not conforming to these requirements makes the proposal non-compliant and it will be rejected by the State.

2.1.8 Pursuant to NRS 333.350:

- A. The State reserves the right to reject any or all proposals received prior to contract award.
- B. The State reserves the right to limit the Scope of Work prior to award, if deemed in the best interest of the State.
- C. Proposals may be modified or withdrawn by written notice received prior to the proposal opening time. Withdrawals received after the proposal opening time shall not be considered except as authorized by NRS 333.350(3).
- D. Submitted proposals become the property of the State, selection or rejection does not affect this right.

2.1.9 Pursuant to NRS 333.338, the State of Nevada cannot enter a contract with a company unless that company agrees for the duration of the contract not to engage in a boycott of Israel. By submitting a proposal or bid, vendor agrees that if it is awarded a contract it will not engage in a boycott of Israel as defined in NRS 333.338(3)(a).

2.1.10 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.

2.1.11 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.

2.1.12 Products and/or Alternates

- A. Vendor shall not propose an alternative that would require the State to acquire hardware or software or change processes in order to function properly on the vendor system unless vendor included a clear description of such proposed alternatives and clearly mark any descriptive material to show the proposed alternative.
- B. An acceptable alternative is one the State considers satisfactory in meeting the requirements of this RFP.
- C. The State, at its sole discretion, shall determine if the proposed alternative meets the intent of the original RFP requirement.

2.2 GENERAL TERMS

- 2.2.1 Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of the project, may be rejected.
- 2.2.2 The State is not liable for any costs incurred by vendors prior to entering a formal contract.
- 2.2.3 Costs of developing the proposal or any other such expenses incurred by the vendor in responding to the RFP, are entirely the responsibility of the vendor, and shall not be reimbursed in any manner by the State.

TERMS AND CONDITIONS FOR SERVICES

2.2.4 Prices offered by vendors in their proposals are an irrevocable offer for the term of the contract and any contract extensions.

A. The awarded vendor agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP.

B. No other costs, rates or fees shall be payable to the awarded vendor for implementation of their proposal.

3. PROJECT TERMS AND CONDITIONS

3.1 AWARD OF RELATED CONTRACTS

3.1.1 The State may undertake or award supplemental contracts for work related to this project or any portion thereof.

3.1.2 Contractor shall be bound to cooperate fully with such other contractors and the State in all cases.

3.1.3 All subcontractors shall be required to abide by this provision as a condition of the contract between the subcontractor and the prime contractor.

3.2 TRAVEL

3.2.1 If part of the contract, will follow the processes below.

3.2.2 All travel shall be approved in writing in advance by the State.

3.2.3 Requests for reimbursement of travel expenses shall be submitted on the State Claim for Travel Expense Form with original receipts for all expenses.

3.2.4 The travel expense form, with original signatures, shall be submitted with the vendor invoice.

3.2.5 Vendor shall be reimbursed travel expenses and per diem at the rates allowed for State employees at the time travel occurs.

3.2.6 The State is not responsible for payment of any premium, deductible or assessments on insurance policies purchased by vendor for a rental vehicle.

3.3 STATE OWNED PROPERTY. The awarded vendor shall be responsible for the proper custody and care of any State-owned property furnished by the State for use in connection with the performance of the contract and shall reimburse the State for any loss or damage.

3.4 INSPECTION/ACCEPTANCE/COMPLETION OF WORK

3.4.1 It is expressly understood and agreed all work done by the contractor shall be subject to inspection and acceptance by the State.

3.4.2 Any progress inspections and approval by the State of any item of work shall not forfeit the right of the State to require the correction of any faulty workmanship or material at any time during the course of the work and warranty period thereafter, although previously approved by oversight.

3.4.3 Nothing contained herein shall relieve the contractor of the responsibility for proper installation and maintenance of the work, materials and equipment required under the terms of the contract until all work has been completed and accepted by the State.

3.4.4 Prior to completion of all work, the contractor shall remove from the premises all equipment and materials belonging to the contractor.

3.4.5 Upon completion of the work, the contractor shall leave the site in a clean and neat condition satisfactory to the State.

3.5 RIGHT TO PUBLISH

3.5.1 All requests for the publication or release of any information pertaining to this RFP and any subsequent contract shall be in writing and sent to the head of the using agency or designee.

3.5.2 No announcement concerning the award of a contract due to this RFP can be made without prior written approval of the head of the using agency or designee.

3.5.3 As a result of the selection of the contractor to supply the requested services, the State is neither endorsing nor suggesting the contractor is the best or only solution.

3.5.4 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 the specific advance written authorization of the head of the using agency or designee.

3.5.5 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.

TERMS AND CONDITIONS FOR SERVICES

3.6 PROTECTION OF SENSITIVE INFORMATION

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

4. CONTRACT TERMS AND CONDITIONS

- 4.1 The State reserves the right to negotiate final contract terms with any vendor selected per NAC 333.170.

- 4.1.1 The contract between the parties shall consist of the RFP together with any modifications thereto, and the awarded vendor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the State during the evaluation and negotiation process.

- 4.1.2 In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence:

- A. The final executed contract, any modifications, and clarifications to the awarded vendor's proposal;
- B. The RFP and RFP Amendments, if applicable; and
- C. The awarded vendor's proposal.

- 4.1.3 Specific exceptions to this general rule may be noted in the final executed contract.

4.2 THIRD PARTY BENEFICIARIES

- 4.2.1 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 RFP and may join or use any contract resulting from this RFP subject to Nevada law.
- 4.2.2 Public entities in other states or jurisdictions may join or use any resulting contract from this RFP subject to cooperative contracting laws in their respective state or jurisdiction.
- 4.2.3 The State is not liable for the obligations of any other entity which joins or uses any contract resulting from this RFP.

- 4.3 **FEDERAL CONTRACTS.** 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.

4.4 DISCRIMINATION

- 4.4.1 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.
- 4.4.2 The contractor further agrees to insert this provision in all subcontracts, hereunder, except subcontracts for standard commercial supplies or raw materials.

4.5 ADMINISTRATIVE FEE

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

TERMS AND CONDITIONS FOR SERVICES

5. FINANCIAL TERMS AND CONDITIONS

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 The vendor shall bill the State as outlined in the approved contract and/or payment schedule.

5.2.3 The State presently has a Procurement Card Program that participating State agencies may use to pay for some of their purchases.

A. Program is issued through a major financial institution and treated like any other major credit card.

B. Using agencies may desire to use the card as a method of payment.

C. No additional charges or fees shall be imposed for using the card.

D. Please indicate in *Vendor Information Response* if you will accept this method of payment.

5.2.4 Timeliness of Billing

A. The State is on a fiscal year calendar, running July 1 through June 30.

B. 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.

C. A billing submitted after the first Friday in August and processed as a stale claim pursuant to NRS 353.097, shall subject the contractor to an administrative fee not to exceed \$100.00.

D. This is the estimate of the additional costs to the State for processing the billing as a stale claim and this amount shall be deducted from the stale claims' payment due the 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 purchased under the provisions of this RFP electronically, unless determined by the State Controller that the electronic payment would cause the payee to suffer undue hardship or extreme inconvenience.