

State of Nebraska REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

RETURN TO:
Nebraska Department of Roads
5001 S. 14th Street
Lincoln, Ne 68512
Phone: (402) 479-4356
Fax: (402) 479-4567

| | |
|-------------------------------------|---------------------|
| SOLICITATION NUMBER | RELEASE DATE |
| RFP #R20-16 | April 12, 2016 |
| OPENING DATE AND TIME | PROCUREMENT CONTACT |
| May 25, 2016 3:00 P.M. Central Time | Gloria Ryken |

This form is part of the specification package and must be signed in ink and returned, along with proposal documents, by the opening date and time specified.

PLEASE READ CAREFULLY!

SCOPE OF SERVICE

The State of Nebraska, Department of Roads, is issuing this Request for Proposal, RFP Number R20-16 for the purpose of selecting a qualified Contractor to provide management and operations of vending machine services.

Written questions are due no later than May 6, 2016, and should be submitted via e-mail to DOR.OperationsProcurement@nebraska.gov. Written questions may also be sent by facsimile to (402) 479-4567.

A Pre-Proposal Conference with mandatory attendance will be held on April 28, 2016 @ 10:00 A.M. CDT at Nebraska Department of Roads, 1500 Building, 1500 Nebraska Highway 2, Lincoln, NE 68512.

Bidder should submit one (1) original of the entire proposal. Proposals must be submitted by the proposal due date and time.

PROPOSALS MUST MEET THE REQUIREMENTS OUTLINED IN THIS REQUEST FOR PROPOSAL TO BE CONSIDERED VALID. PROPOSALS WILL BE REJECTED IF NOT IN COMPLIANCE WITH THESE REQUIREMENTS.

1. Sealed proposals must be received in Nebraska Department of Roads by the date and time of proposal opening indicated above. No late proposals will be accepted. No electronic, e-mail, fax, voice, or telephone proposals will be accepted.
2. This form "REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES" MUST be manually signed, in ink, and returned by the proposal opening date and time along with bidder's proposal and any other requirements as specified in the Request for Proposal in order to be considered for an award.
3. It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address is as follows:
<http://www.transportation.nebraska.gov/operations/procure/index.htm>

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. § 84-602.02, all State contracts in effect as of January 1, 2014, and all contracts entered into thereafter, will be posted to a public website. Beginning July 1, 2014, all contracts will be posted to a public website managed by the Department of Administrative Services.

In addition, all responses to Requests for Proposals will be posted to the Department of Administrative Services public website. The public posting will include figures, illustrations, photographs, charts, or other supplementary material. Proprietary information identified and marked according to state law is exempt from posting. To exempt proprietary information you must submit a written showing that the release of the information would give an advantage to named business competitor(s) and show that the named business competitor(s) will gain a demonstrated advantage by disclosure of information. The mere assertion that information is proprietary is not sufficient. (Attorney General Opinion No. 92068, April 27, 1992) The agency will then determine if the interests served by nondisclosure outweigh any public purpose served by disclosure. Cost proposals will not be considered propriety.

To facilitate such public postings, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract or response to this RFP for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a response to this RFP, specifically waives any copyright or other protection the contract or response to the RFP may have; and, acknowledge that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a response to this RFP and award of the contract. Failure to agree to the reservation and waiver of protection will result in the response to the RFP being non-conforming and rejected.

Any entity awarded a contract or submitting a RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of contracts, RFPs and related documents.

BIDDER MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment.

Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat § 73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska Contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

_____ **NEBRASKA CONTRACTOR AFFIDAVIT:** Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this RFP.

_____ I hereby certify that I am a **Resident disabled veteran or business located in a designated enterprise zone** in accordance with Neb. Rev. Stat. § 73-107 and wish to have preference, if applicable, considered in the award of this contract.

_____ I hereby certify that I am a **blind person licensed by the Commission for the Blind & Visually Impaired** in accordance with Neb. Rev. Stat. § 71-8611 and wish to have preference considered in the award of this contract.

FIRM: _____
COMPLETE ADDRESS: _____
TELEPHONE NUMBER: _____ FAX NUMBER: _____
SIGNATURE: _____ DATE: _____
TYPED NAME & TITLE OF SIGNER: _____

TABLE OF CONTENTS

| | |
|--------------------------------------------------------------------------------------------------|-----------|
| REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM..... | i |
| TABLE OF CONTENTS..... | iii |
| GLOSSARY OF TERMS..... | v |
| I. SCOPE OF THE REQUEST FOR PROPOSAL..... | 1 |
| A. SCHEDULE OF EVENTS | 1 |
| II. PROCUREMENT PROCEDURES..... | 2 |
| A. PROCURING OFFICE AND CONTACT PERSON | 2 |
| B. GENERAL INFORMATION..... | 2 |
| C. CUSTOMER SERVICE..... | 2 |
| D. COMMUNICATION WITH STATE STAFF AND EVALUATORS | 2 |
| E. WRITTEN QUESTIONS AND ANSWERS..... | 3 |
| F. PRE-PROPOSAL CONFERENCE..... | 3 |
| G. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS | 3 |
| H. SUBMISSION OF PROPOSALS | 4 |
| I. PROPOSAL OPENING..... | 4 |
| J. LATE PROPOSALS..... | 4 |
| K. REJECTION OF PROPOSALS | 4 |
| L. EVALUATION OF PROPOSALS | 4 |
| M. EVALUATION COMMITTEE..... | 6 |
| N. MANDATORY REQUIREMENTS | 6 |
| O. REFERENCE CHECKS..... | 6 |
| P. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS..... | 6 |
| Q. VIOLATION OF TERMS AND CONDITIONS | 6 |
| III. TERMS AND CONDITIONS | 8 |
| A. GENERAL..... | 8 |
| B. AWARD | 8 |
| C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION | 9 |
| D. PERMITS, REGULATIONS, LAWS | 9 |
| E. OWNERSHIP OF INFORMATION AND DATA..... | 9 |
| F. INSURANCE REQUIREMENTS..... | 9 |
| G. COOPERATION WITH OTHER CONTRACTORS | 11 |
| H. INDEPENDENT CONTRACTOR..... | 11 |
| I. CONTRACTOR RESPONSIBILITY | 11 |
| J. CONTRACTOR PERSONNEL | 11 |
| K. CONTRACT CONFLICTS..... | 12 |
| L. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION..... | 12 |
| M. CONFLICT OF INTEREST | 12 |
| N. PROPOSAL PREPARATION COSTS | 12 |
| O. ERRORS AND OMISSIONS..... | 12 |
| P. BEGINNING OF WORK..... | 12 |
| Q. ASSIGNMENT BY THE STATE..... | 12 |
| R. ASSIGNMENT BY THE CONTRACTOR..... | 12 |
| S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL | 12 |
| T. GOVERNING LAW | 12 |
| U. ATTORNEY'S FEES..... | 12 |
| V. ADVERTISING | 13 |
| W. STATE PROPERTY..... | 13 |
| X. SITE RULES AND REGULATIONS..... | 13 |
| Y. NOTIFICATION | 13 |
| Z. EARLY TERMINATION | 13 |
| AA. FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS | 14 |
| BB. BREACH BY CONTRACTOR..... | 14 |
| CC. ASSURANCES BEFORE BREACH..... | 14 |

| | | |
|---------------|--------------------------------------------------------------------------|-----------|
| DD. | ADMINISTRATION – CONTRACT TERMINATION..... | 14 |
| EE. | FORCE MAJEURE | 14 |
| FF. | RIGHT TO AUDIT | 15 |
| GG. | TAXES | 15 |
| HH. | INSPECTION AND APPROVAL | 15 |
| II. | CHANGES IN SCOPE/CHANGE ORDERS | 15 |
| JJ. | SEVERABILITY | 16 |
| KK. | CONFIDENTIALITY | 16 |
| LL. | PROPRIETARY INFORMATION | 16 |
| MM. | CERTIFICATION OF INDEPENDENT PRICE DETERMINATION/COLLUSIVE BIDDING | 16 |
| NN. | STATEMENT OF NON-COLLUSION | 16 |
| OO. | PRICES | 17 |
| PP. | BEST AND FINAL OFFER..... | 17 |
| QQ. | ETHICS IN PUBLIC CONTRACTING | 17 |
| RR. | INDEMNIFICATION | 18 |
| SS. | NEBRASKA TECHNOLOGY ACCESS STANDARDS..... | 18 |
| TT. | ANTITRUST..... | 19 |
| UU. | DISASTER RECOVERY/BACK UP PLAN..... | 19 |
| VV. | TIME IS OF THE ESSENCE..... | 19 |
| WW. | RECYCLING..... | 19 |
| XX. | DRUG POLICY | 19 |
| YY. | EMPLOYEE WORK ELIGIBILITY STATUS..... | 19 |
| ZZ. | CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY..... | 19 |
| AAA. | POLITICAL SUB-DIVISIONS..... | 20 |
| BBB. | OFFICE OF PUBLIC COUNSEL | 20 |
| CCC. | LONG-TERM CARE OMBUDSMAN..... | 20 |
| IV. | PROJECT DESCRIPTION AND SCOPE OF WORK | 21 |
| A. | PROJECT OVERVIEW | 21 |
| B. | SCOPE OF WORK | 21 |
| C. | PROJECT ENVIRONMENT..... | 22 |
| D. | TECHNICAL REQUIREMENTS..... | 23 |
| E. | PERSONNEL..... | 26 |
| F. | UTILITIES AND SPACE | 26 |
| G. | PRICING..... | 27 |
| H. | BUSINESS REQUIRMENTS | 27 |
| I. | DELIVERABLES | 27 |
| V. | PROPOSAL INSTRUCTIONS | 28 |
| A. | PROPOSAL SUBMISSION..... | 28 |
| B. | COST PROPOSAL REQUIREMENTS | 30 |
| C. | PAYMENT SCHEDULE | 31 |
| Form A | Bidder Contact Sheet | 32 |
| Form B | Notification of Intent to Attend Pre-Proposal Conference..... | 33 |

GLOSSARY OF TERMS

Acceptance Test Procedure: Benchmarks and other performance criteria, developed by the State of Nebraska or other sources of testing standards, for measuring the effectiveness of products or services and the means used for testing such performance.

Addendum: Something to be added or deleted to an existing document; a supplement.

After Receipt of Order (ARO): After Receipt of Order

Agency: Any state agency, board, or commission other than the University of Nebraska, the Nebraska State colleges, the courts, the Legislature, or any other office or agency established by the Constitution of Nebraska.

Agent/Representative: A person authorized to act on behalf of another.

Amend: To alter or change by adding, subtracting, or substituting.

Amendment: A written correction or alteration to a document.

Appropriation: Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

Award: All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

Best and Final Offer (BAFO): In a competitive bid, the final offer submitted which contains the bidder's (vendor's) most favorable terms for price.

Bid/Proposal: The offer submitted by a vendor in a response to written solicitation.

Bid Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the vendor will not withdraw the bid.

Bidder: A vendor who submits an offer bid in response to a written solicitation.

Business: Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

Business Day: Any weekday, except State-recognized holidays.

Calendar Day: Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays.

Cancellation: To call off or revoke a purchase order without expectation of conducting or performing it at a later time.

Central Processing Unit (CPU): Any computer or computer system that is used by the State to store, process, or retrieve data or perform other functions using Operating Systems and applications software.

Collusion: An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

Commodities: Any equipment, material, supply or goods; anything movable or tangible that is provided or sold.

Commodities Description: Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.

Competition: The effort or action of two or more commercial interests to obtain the same business from third parties.

Confidential Information: Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In

accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

Contract: An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

Contract Administration: The management of the contract which includes and is not limited to contract signing, contract amendments and any necessary legal actions.

Contract Management: The management of day to day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

Contract Period: The duration of the contract.

Contractor: Any individual or entity having a contract to furnish commodities or services.

Cooperative Purchasing: The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses, or other public benefits.

Copyright: A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, and distribute the work.

Critical Program Error: Any Program Error, whether or not known to the State, which prohibits or significantly impairs use of the Licensed Software as set forth in the documentation and intended in the contract.

Customer Service: The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by the Contractor.

Default: The omission or failure to perform a contractual duty.

Deviation: Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

Evaluation: The process of examining an offer after opening to determine the vendor's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

Evaluation Committee: Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of bids/proposals (offers made in response to written solicitations).

Extension: Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

Free on Board (F.O.B.) Destination: The delivery charges are included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product.

Free on Board (F.O.B.) Point of Origin: The delivery charges are not included in the quoted price and are the responsibility of the agency. Agency is responsible for all claims associated with damages during delivery of product.

Foreign Corporation: A foreign corporation that was organized and chartered under the laws of another state, government, or country.

Installation Date: The date when the procedures described in 'Installation by Contractor', and "Installation by State", as found in the RFP, or contract are completed.

Late Bid/Proposal: An offer received after the Opening Date and Time.

Licensed Software Documentation: The user manuals and any other materials in any form or medium customarily provided by the Contractor to the users of the Licensed Software which will provide the State with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

Mandatory/Must: Required, compulsory, or obligatory.

May: Discretionary, permitted; used to express possibility.

Module (see System): A collection of routines and data structures that perform a specific function of software.

Must: See Shall/Will/Must.

National Institute for Governmental Purchasing (NIGP): National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services.

Open Market Purchase: Authorization may be given to an agency to purchase items above direct purchase authority due to the unique nature, price, quantity, location of the using agency or time limitations by the AS Materiel Division, State Purchasing Bureau.

Opening Date and Time: Specified date and time for the public opening of received, labeled, and sealed formal proposals.

Operating System: The control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.

Outsourcing: The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the process is purchased back.

Payroll & Financial Center (PFC): Electronic procurement system of record.

Performance Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the Contractor fulfills any and all obligations under the contract.

Platform: A specific hardware and Operating System combination that is different from other hardware and Operating System combinations to the extent that a different version of the Licensed Software product is required to execute properly in the environment established by such hardware and Operating System combination.

Pre-Bid/Pre-Proposal Conference: A meeting scheduled for the purpose of clarifying a written solicitation and related expectations.

Product: Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

Program Error: Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any "Critical Program Error".

Program Set: The group of programs and products, including the Licensed Software specified in the RFP, plus any additional programs and products licensed by the State under the contract for use by the State.

Project: The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities, and services to be provided under the contract.

Proposal: See Bid/Proposal.

Proprietary Information: Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and service no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific named competitor(s) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information.

Protest/Grievance: A complaint about a governmental action or decision related to a Request for Proposal, or resultant contract, brought by a vendor who has timely submitted a bid response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

Public Proposal Opening: The process of opening correctly submitted offers at the time and place specified in the written solicitation and in the presence of anyone who wished to attend.

Recommended Hardware Configuration: The data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by the State as recommended by the Contractor.

Release Date: The date of public release of the written solicitation to seek offers

Renewal Period: Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension.

Request for Information (RFI): A general invitation to vendors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

Request for Proposal (RFP): A written solicitation utilized for obtaining competitive offers.

Responsible Bidder: A bidder who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

Responsive Bidder: A bidder who has submitted a bid which conforms to all requirements of the solicitation document.

Shall/Will/Must: An order/command; mandatory.

Should: Expected; suggested, but not necessarily mandatory.

Software License: Legal instrument with or without printed material that governs the use or redistribution of licensed software.

Sole Source – Commodity: When an item is available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

Sole Source – Services: A service of such a unique nature that the vendor selected is clearly and justifiably the only practical source to provide the service. Determination that the vendor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required.

Specifications: The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract.

System (see Module): Any collection or aggregation of two (2) or more Modules that is designed to function, or is represented by the Contractor as functioning or being capable of functioning, as an entity.

Termination: Occurs when either party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

Trade Secret: Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that; (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. § 87-502(4)).

Trademark: A word, phrase, logo, or other graphic symbol used by a manufacturer or vendor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

Upgrade: Any change that improves or alters the basic function of a product of service.

Vendor: An individual or entity lawfully conducting business in the State of Nebraska, or licensed to do so, who seeks to provide goods or services under the terms of a written solicitation.

Vendor Performance Report: A report issued to the Contractor by State Purchasing Bureau when products or services delivered or performed fail to meet the terms of the purchase order, contract, and/or specifications, as reported to State Purchasing Bureau by the agency. The State Purchasing Bureau shall contact the Contractor regarding any such report. The vendor performance report will become a part of the permanent record for the Contractor. The State may require vendor to cure. Two such reports may be cause for immediate termination.

Will: See Shall/Will/Must.

Work Day: See Business Day.

I. SCOPE OF THE REQUEST FOR PROPOSAL

The State of Nebraska, Department of Roads, is issuing this Request for Proposal, RFP Number R20-16 for the purpose of selecting a qualified Contractor to provide management and operation of vending machine services. Any resulting contract is not an exclusive contract to furnish the services provided for in this Request for Proposal, and does not preclude the purchase of similar services from other sources.

A contract resulting from this Request for Proposal will be issued approximately for a period of two (2) years effective the date of the award. The contract has the option to be renewed for two (2) additional two (2) year periods as mutually agreed upon by all parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Contractor and the State of Nebraska.

ALL INFORMATION PERTINENT TO THIS REQUEST FOR PROPOSAL CAN BE FOUND ON THE INTERNET AT:

<http://www.transportation.nebraska.gov/operations/procure/index.htm>

A. SCHEDULE OF EVENTS

The State expects to adhere to the tentative procurement schedule shown below. It should be noted, however, that some dates are approximate and subject to change.

| | ACTIVITY | DATE/TIME |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| 1. | Release Request for Proposal | 4/12/2016 |
| 2. | Mandatory Pre-Proposal Conference Location: Nebraska Department of Roads 1500 Building (Front Lobby) 1500 Nebraska Highway 2 Lincoln, NE 68512 <i>* Registration Advisement: Bids will only be accepted from those Companies/Firms which properly register their attendance at this meeting by completing all of the required information on the State Registration Sheet.</i> | 4/28/2016, 10:00A.M. CDT |
| 3. | Last day to submit written questions after Pre-Proposal Conference | 5/6/2016 |
| 4. | State responds to written questions through Request for Proposal "Addendum" and/or "Amendment" to be posted to the Internet at: http://www.transportation.nebraska.gov/operations/procure/index.htm | 5/11/2016 |
| 5. | Proposal opening Location: Department of Roads Operations Division 5001 So. 14 th Street Lincoln, NE 68512 | 5/25/2016 3:00 P.M. Central Time |
| 6. | Review for conformance of mandatory requirements | 5/25/2016 |
| 7. | Evaluation period | 5/26/2016 – 6/3/2016 |
| 8. | "Oral Interviews/Presentations and/or Demonstrations" (if required) | TBD |
| 9. | Post "Letter of Intent to Contract" to Internet at: http://www.transportation.nebraska.gov/operations/procure/index.htm | 6/7/2016 |
| 10. | Contract finalization period | 6/7/2016 – 6/30/2016 |
| 11. | Contract award | 7/1/2016 |
| 12. | Contractor start date | 8/1/2016 |

II. PROCUREMENT PROCEDURES

A. PROCURING OFFICE AND CONTACT PERSON

Procurement responsibilities related to this Request for Proposal reside with the Nebraska Department of Roads. The point of contact for the procurement is as follows:

Name: Gloria Ryken
Agency: Nebraska Department of Roads
Operations Division
Address: 5001 So. 14th Street
Lincoln, NE 68512

OR

Address: PO Box 94759
Lincoln, NE 68509-4759
Telephone: (402) (479-4356)
Facsimile: (402) (479-4567)
E-Mail: DOR.OperationsProcurement@nebraska.gov

B. GENERAL INFORMATION

The Request for Proposal is designed to solicit proposals from qualified vendors who will be responsible for providing vending machine services at a competitive and reasonable cost. Proposals that do not conform to the mandatory items as indicated in the Request for Proposal will not be considered.

Proposals shall conform to all instructions, conditions, and requirements included in the Request for Proposal. Prospective bidders are expected to carefully examine all documentation, schedules and requirements stipulated in this Request for Proposal, and respond to each requirement in the format prescribed.

A fixed-price contract will be awarded as a result of this proposal. In addition to the provisions of this Request for Proposal and the awarded proposal, which shall be incorporated by reference in the contract, any additional clauses or provisions required by the terms and conditions will be included as an amendment to the contract.

C. CUSTOMER SERVICE

In addition to any specified service requirements contained in this agreement, the Contractor agrees and understands that satisfactory customer service is required. Contractor will develop or provide technology and business procedures designed to enhance the level of customer satisfaction and to provide the customer appropriate information given their situation. Contractor, its employees, Subcontractors, and agents must be accountable, responsive, reliable, patient, and have well-developed communication skills as set forth by the customer service industry's best practices and processes.

D. COMMUNICATION WITH STATE STAFF AND EVALUATORS

From the date the Request for Proposal is issued until a determination is announced regarding the selection of the Contractor, contact regarding this project between potential Contractors and individuals employed by the State is restricted to only written communication with the staff designated above as the point of contact for this Request for Proposal. Bidders shall not have any communication with, or attempt to communicate with or influence in any way, any evaluator involved in this RFP.

Once a Contractor is preliminarily selected, as documented in the intent to contract, that Contractor is restricted from communicating with State staff until a contract is signed. Violation of this condition may be considered sufficient cause to reject a Contractor's proposal and/or selection irrespective of any other condition.

The following exceptions to these restrictions are permitted:

1. written communication with the person(s) designated as the point(s) of contact for this Request for Proposal or procurement;
2. contacts made pursuant to any pre-existing contracts or obligations;
3. state staff and/or Contractor staff present at the Pre-Proposal Conference when recognized by the Nebraska Department of Roads staff facilitating the meeting for the purpose of addressing questions; and
4. State-requested presentations, key personnel interviews, clarification sessions or discussions to finalize a contract.

Violations of these conditions may be considered sufficient cause to reject a bidder's proposal and/or selection irrespective of any other condition. No individual member of the State, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this Request for Proposal. The buyer will issue any clarifications or opinions regarding this Request for Proposal in writing.

E. WRITTEN QUESTIONS AND ANSWERS

Any explanation desired by a bidder regarding the meaning or interpretation of any Request for Proposal provision must be submitted in writing to the Nebraska Department of Roads and clearly marked "RFP Number R20-16; Vending Machine Services Questions". It is preferred that questions be sent via e-mail to DOR.OperationsProcurement@nebraska.gov. Questions may also be sent by facsimile to (402) 479-4567, but must include a cover sheet clearly indicating that the transmission is to the attention of Gloria Ryken (Buyer), showing the total number of pages transmitted, and clearly marked "RFP Number R20-16; Vending Machine Services Questions".

It is recommended that Bidders submit questions sequentially numbered, include the RFP reference and page number using the following format.

| <u>Question Number</u> | <u>RFP Section Reference</u> | <u>RFP Page Number</u> | <u>Question</u> |
|------------------------|------------------------------|------------------------|-----------------|
| | | | |

Written answers will be provided through an addendum to be posted on the Internet at <http://www.transportation.nebraska.gov/operations/procure/index.htm>

F. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on the date, time, and location shown in the Schedule of Events. Attendance at the pre-proposal conference is mandatory in order to submit a proposal. Bidders will have an opportunity to ask questions at the conference to assist in the clarification and understanding of the Request for Proposal requirements. The State will make every reasonable attempt to answer those questions before the end of the conference. Bidders attending the pre-proposal meeting may submit further questions in writing for questions which the bidder requires an official written response as shown in the Schedule of Events.

Written answers to written questions along with a list of conference attendees will be provided through an addendum to be posted on the Internet at <http://www.transportation.nebraska.gov/operations/procure/index.htm> on or before the date shown in the Schedule of Events. Verbal responses provided during the pre-proposal meeting shall not be binding on the State of Nebraska.

1. NOTIFICATION OF INTENT TO ATTEND MANDATORY PRE-PROPOSAL CONFERENCE

Notification of attendance should be submitted to the Nebraska Department of Roads via e-mail (DOR.OperationsProcurement@nebraska.gov), facsimile (402) 479-4567, hand delivery or US mail by the date shown in the Schedule of Events. Potential bidders should utilize the "Notification of Intent to Attend Pre-Proposal Conference" (see Form B) that accompanies this document to the contact person shown on the cover page of the Request for Proposal form. This form should be filled out in its entirety and returned no later than the date shown in the Schedule of Events.

G. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS

The Evaluation Committee(s) may conclude after the completion of the Technical and Cost Proposal evaluation that oral interviews/presentations and/or demonstrations are required in order to determine the successful bidder. All bidders may not have an opportunity to interview/present and/or give demonstrations; the State reserves the right to select only the top scoring bidders to present/give oral interviews in its sole discretion. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the Technical and Cost Proposals. The presentation process will allow the bidders to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Bidders' key personnel may be requested to participate in a structured interview to determine their understanding of the requirements of this proposal, their authority and reporting relationships within their firm, and their management style and philosophy. Bidders shall not be allowed to alter or amend their proposals. Only representatives of the State and the presenting bidders will be permitted to attend the oral interviews/presentations and/or demonstrations.

Once the oral interviews/presentations and/or demonstrations have been completed the State reserves the right to make a contract award without any further discussion with the bidders regarding the proposals received.

Detailed notes of oral interviews/presentations and/or demonstrations may be recorded and supplemental information (such as briefing charts, et cetera) may be accepted; however, such supplemental information shall not

be considered an amendment to a bidders' proposal. Additional written information gathered in this manner shall not constitute replacement of proposal contents.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the bidder and will not be compensated by the State.

H. SUBMISSION OF PROPOSALS

The following describes the requirements related to proposal submission, proposal handling, and review by the State.

To facilitate the proposal evaluation process, one (1) original of the entire proposal must be submitted. Proposals must be submitted by the proposal due date and time. **A separate sheet must be provided that clearly states which sections have been submitted as proprietary or have copyrighted materials.** All proprietary information the bidder wishes the State to withhold must be submitted in accordance with the instructions outlined in Section III, Proprietary Information. Proposal responses should include the completed Form A, Bidder Contact Sheet. Proposals must reference the Request for Proposal number and be sent to the specified address. Please note that the address label should appear as specified in Section II part A on the face of each container or bidder's bid response packet. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. If a recipient phone number is required for delivery purposes, (402) 479-4356 should be used. The Request for Proposal number must be included in all correspondence.

Emphasis should be concentrated on conformance to the Request for Proposal instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming, it is likely that the proposal will be rejected.

The Technical and Cost Proposals should be packaged separately (loose-leaf binders are preferred) on standard 8 ½" by 11" paper, except that charts, diagrams and the like may be on fold-outs which, when folded, fit into the 8 ½" by 11" format. Pages may be consecutively numbered for the entire proposal, or may be numbered consecutively within sections. Figures and tables must be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text. The Technical Proposal must not contain any reference to dollar amounts. However, information such as data concerning labor hours and categories, materials, subcontracts and so forth, shall be considered in the Technical Proposal so that the bidder's understanding of the scope of work may be evaluated. The Technical Proposal shall disclose the bidder's technical approach in as much detail as possible, including, but not limited to, the information required by the Technical Proposal instructions.

I. PROPOSAL OPENING

The sealed proposals will be publicly opened and the bidding entities announced on the date, time, and location shown in the Schedule of Events. Proposals will be available for viewing by those present after the proposal opening. Vendors may also contact the State to schedule an appointment for viewing proposals after the Intent to Award has been posted to the website.

J. LATE PROPOSALS

Proposals received after the time and date of the proposal opening will be considered late proposals. Rejected late proposals will be returned to the bidder unopened, if requested, at bidder's expense. The State is not responsible for proposals that are late or lost due to mail service inadequacies, traffic, or any other reason(s).

K. REJECTION OF PROPOSALS

The State reserves the right to reject any or all proposals, in whole or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

L. EVALUATION OF PROPOSALS

All proposals that are responsive to the Request for Proposal will be evaluated. The State will conduct a fair, impartial, and comprehensive evaluation of all responsive proposals in accordance with the criteria set forth below. The State may elect to use a third-party to conduct credit checks as part of the corporate overview evaluation. Areas that will be addressed and scored during the evaluation include:

1. Corporate Overview should include but is not limited to:
 - a. the ability, capacity, and skill of the bidder to deliver and implement the system or project that meets the requirements of the Request for Proposal;
 - b. the character, integrity, reputation, judgment, experience, and efficiency of the bidder;
 - c. whether the bidder can perform the contract within the specified time frame;
 - d. the quality of bidder performance on prior contracts;

- e. such other information that may be secured and that has a bearing on the decision to award the contract;
2. Technical Approach; and
3. Cost Proposal.

Neb. Rev. Stat. § 73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone. When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.

Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection. Any contract entered into without compliance with this section shall be null and void.

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a bid in accordance with Neb. Rev. Stat. § 73-107 and has so indicated on the RFP cover page under "Bidder must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the vendor within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service;
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
3. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
4. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within ten (10) business days of notice will disqualify the bidder from consideration of the preference.

Neb. Rev. Stat. § 71-8611 allows for a preference with respect to vending facilities in any state-owned building or on any property owned or controlled by the state, priority shall be given to blind persons, except that this shall not apply to the Game and Parks Commission or the University of Nebraska. This priority shall only be given if the product price in the bid submitted is comparable in price to the product price in the other bids submitted for similar products sold in similar building or on similar property and all other components of the bid for a contract, except for any rent paid to the State, are found to be reasonably equivalent to other bidders. Blind persons must be licensed by the Commission for the Blind and Visually Impaired pursuant to its rules and regulations

Therefore, if a blind person submits a bid in accordance with Neb. Rev. Stat. § 71-8611 to a vending machine services RFP and has checked "yes" requesting priority/preference to be considered in the award of this contract, the following will need to be completed by the Agency:

- a. Product Price Comparability Determination;
- b. Reasonably Equivalent Determination on all other components of the bid, except for "Rent Paid to the State."

Note: For purposes of the Commission for the Blind and Visually Impaired Act per Neb. Rev. Stat. § 71-8603, Vending facility means:

(a) Cafeterias, snack bars, cart services, shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment necessary for the vending of articles approved by the office, agency, or person having control of the property on which the vending facility is located; and

(b) Manual or coin-operated vending machines or similar devices for vending articles approved by the office, agency, or person having control of the property on which the vending facility is located;

Evaluation criteria will become public information at the time of the Request for Proposal is released. Evaluation criteria and a list of respondents will be posted to the Internet at: <http://www.transportation.nebraska.gov/operations/procure/index.htm>

M. EVALUATION COMMITTEE

Proposals will be independently evaluated by members of the Evaluation Committee(s). The Evaluation Committee(s) will consist of staff with the appropriate expertise to conduct such proposal evaluations. Names of the members of the Evaluation Committee(s) will not be published.

Prior to award, bidders are advised that only the point of contact indicated on the front cover of this Request for Proposal for Contractual Services Form can clarify issues or render any opinion regarding this Request for Proposal. No individual member of the State, employee of the State, or member of the Evaluation Committee(s) is empowered to make binding statements regarding this Request for Proposal.

Any contact, or attempted contact, with an evaluator that is involved with this RFP may result in the rejection of this proposal and further administrative actions may be taken.

N. MANDATORY REQUIREMENTS

The proposals will first be examined to determine if all mandatory requirements listed below have been addressed to warrant further evaluation. Proposals not meeting mandatory requirements will be excluded from further evaluation. The mandatory requirement items are as follows:

1. Request for Proposal for Contractual Services form, signed in ink;
2. Corporate Overview;
3. Technical Approach;
4. Attachment A, Vending Machine Product List;
5. Attachment B, Proposed Vending Machines to be Provided by Area; and
6. Attachment C, Proposed Monthly Rental Payment Per Vending Service Area

O. REFERENCE CHECKS

The State reserves the right to check any reference(s), regardless of the source of the reference information, including but not limited to, those that are identified by the company in the proposal, those indicated through the explicitly specified contacts, those that are identified during the review of the proposal, or those that result from communication with other entities involved with similar projects. The State may use a third-party to conduct reference checks.

Information to be requested and evaluated from references may include, but is not limited to, some or all of the following: financial stability of the company, project description and background, job performed, functional and technical abilities, communication skills and timeliness, cost and schedule estimates and accuracy, problems (poor quality deliverables, contract disputes, work stoppages, et cetera), overall performance, and whether or not the reference would rehire the firm or individual. Only top scoring bidders may receive reference checks and negative references may eliminate bidders from consideration for award.

P. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS

All bidders should be authorized to transact business in the State of Nebraska. All bidders are expected to comply with all Nebraska Secretary of State Registration requirements. It is the responsibility of the bidder to comply with any registration requirements pertaining to types of business entities (e.g. person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation or other type of business entity). The bidder who is the recipient of an Intent to Award will be required to certify that it has so complied and produce a true and exact copy of its current (within ninety (90) calendar days), valid Certificate of Good Standing or Letter of Good Standing; or in the case of a sole proprietorship, provide written documentation of sole proprietorship. This must be accomplished prior to the award of the contract. Construction Contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration. Further, all bidders shall comply with any and all other applicable Nebraska statutes regarding transacting business in the State of Nebraska. Bidders should submit the above certification(s) with their bid.

If a bank is registered with the Office of Comptroller of Currency, it is not required to register with the State. However, the Office of Comptroller of Currency does have a certificate of good standing/registration. The bank could provide that for verification. (Optional)

Q. VIOLATION OF TERMS AND CONDITIONS

Violation of the terms and conditions contained in this Request for Proposal or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a bidder's proposal;
2. Withdrawal of the Intent to Award
3. Termination of the resulting contract.
4. Legal action.
5. Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

III. TERMS AND CONDITIONS

By signing the "Request for Proposal for Contractual Services" form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions unless otherwise agreed to, and certifies bidder maintains a drug free work place environment.

Bidders are expected to closely read the Terms and Conditions and provide a binding signature of intent to comply with the Terms and Conditions; provided, however, a bidder may indicate any exceptions to the Terms and Conditions by (1) clearly identifying the term or condition by subsection, and (2) including an explanation for the bidder's inability to comply with such term or condition which includes a statement recommending terms and conditions the bidder would find acceptable. Rejection in whole or in part of the Terms and Conditions may be cause for rejection of a bidder's proposal.

The State of Nebraska is soliciting bids in response to the RFP. The State of Nebraska will not consider proposals that propose the substitution of the bidder's contract, agreements, or terms for those of the State of Nebraska's. Any License, Service Agreement, Customer Agreement, User Agreement, Bidder Terms and Conditions, Document, or Clause purported or offered to be included as a part of this RFP must be submitted as individual clauses, as either a counter-offer or additional language, and each clause must be acknowledged and accepted in writing by the State. If the Bidder's clause is later found to be in conflict with the RFP or resulting contract the Bidder's clause shall be subordinate to the RFP or resulting contract.

A. GENERAL

The contract resulting from this Request for Proposal shall incorporate the following documents:

1. Amendment to Contract Award with the most recent dated amendment having the highest priority;
2. Contract Award and any attached Addenda;
3. Request for Proposal form and the Contractor's Proposal, signed in ink;
4. Amendments to RFP and any Questions and Answers; and
5. The original RFP document and any Addenda.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to Contract Award with the most recent dated amendment having the highest priority, 2) Contract Award and any attached Addenda, 3) the signed Request for Proposal form and the Contractor's Proposal, 4) Amendments to RFP and any Questions and Answers, 5) the original RFP document and any Addenda.

Any ambiguity in any provision of this contract which shall be discovered after its execution shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

Once proposals are opened they become the property of the State of Nebraska and will not be returned.

B. AWARD

All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part, and at its discretion, may withdraw or amend the Request for Proposal at any time. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State. The Request for Proposal does not commit the State to award a contract. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.

By submitting a proposal in response to this Request for Proposal, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients.

Once intent to award decision has been determined, it will be posted to the Internet at:

<http://www.transportation.nebraska.gov/operations/procure/index.htm>

Grievance and protest procedure is available on the Internet at:

<http://www.transportation.nebraska.gov/operations/procure/general/Grievance-and-Protest-Procedures-for-Vendors.pdf>

Any protests must be filed by a vendor within ten (10) business days after the intent to award decision is posted to the Internet.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION

The Contractor shall comply with all applicable local, state and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensations, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Request for Proposal.

D. PERMITS, REGULATIONS, LAWS

The Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of the contract. The Contractor shall comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

E. OWNERSHIP OF INFORMATION AND DATA

The State of Nebraska shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or derived by the Contractor pursuant to this contract.

The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, and other rights or titles (e.g. rights to licenses transfer or assign deliverables) necessary to execute this contract. The contract price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks, and copyrights that are in any way involved in the contract. It shall be the responsibility of the Contractor to pay for all royalties and costs, and the State must be held harmless from any such claims.

F. INSURANCE REQUIREMENTS

The Contractor shall not commence work under this contract until all the insurance required hereunder and such insurance has been obtained and such insurance has been approved by the State. The Contractor shall maintain all required insurance for the life of this contract and shall ensure that the State Purchasing Bureau has the most current certificate of insurance throughout the life of this contract. If Contractor will be utilizing any Subcontractors, the Contractor is responsible for obtaining the certificate(s) of insurance required herein under from any and all Subcontractor(s). Contractor is also responsible for ensuring Subcontractor(s) maintain the insurance required until completion of the contract requirements. The Contractor shall not allow any Subcontractor to commence work on any subcontract until all similar insurance required of the Subcontractor has been obtained and approved by the Contractor. Approval of the insurance by the State shall not limit, relieve, or decrease the liability of the Contractor hereunder.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Insurance coverages shall function independent of all other clauses in the contract, and in no instance shall the limits of recovery from the insurance be reduced below the limits required by this paragraph.

1. WORKERS' COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the Contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. This policy shall include a waiver of subrogation in favor of the State. The amounts of such insurance shall not be less than the limits stated hereinafter.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this

contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the State, and others as required by the contract documents. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

3. INSURANCE COVERAGE AMOUNTS REQUIRED

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| COMMERCIAL GENERAL LIABILITY | |
| General Aggregate | \$2,000,000 |
| Products/Completed Operations Aggregate | \$2,000,000 |
| Personal/Advertising Injury | \$1,000,000 per occurrence |
| Bodily Injury/Property Damage | \$1,000,000 per occurrence |
| Fire Damage | \$50,000 any one fire |
| Medical Payments | \$10,000 any one person |
| Damage to Rented Premises | \$300,000 each occurrence |
| Contractual | Included |
| XCU Liability (Explosion, Collapse, and Underground Damage) | Included |
| Independent Contractors | Included |
| Abuse & Molestation | Included |
| <i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i> | |
| WORKER'S COMPENSATION | |
| Employers Liability Limits | \$500K/\$500K/\$500K |
| Statutory Limits- All States | Statutory - State of Nebraska |
| USL&H Endorsement | Statutory |
| Voluntary Compensation | Statutory |
| COMMERCIAL AUTOMOBILE LIABILITY | |
| Bodily Injury/Property Damage | \$1,000,000 combined single limit |
| Include All Owned, Hired & Non-Owned Automobile liability | Included |
| Motor Carrier Act Endorsement | Where Applicable |
| UMBRELLA/EXCESS LIABILITY | |
| Over Primary Insurance | \$2,000,000 |
| SUBROGATION WAIVER | |
| "Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska." | |
| LIABILITY WAIVER | |
| "Commercial General Liability & Commercial Automobile Liability policies shall be primary and any insurance or self-insurance carried by the State shall be considered excess and non-contributory." | |

4. EVIDENCE OF COVERAGE

The Contractor should furnish the State, with their proposal response, a certificate of insurance coverage complying with the above requirements, which shall be submitted to the attention of the Buyer.

Nebraska Department of Roads
 Operations Division
 5001 So. 14th Street
 Lincoln, NE 68512
 (Facsimile (402) 479-4567)

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to Nebraska Department of Roads, Operations Division when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

G. COOPERATION WITH OTHER CONTRACTORS

The State may already have in place or choose to award supplemental contracts for work related to this Request for Proposal, or any portion thereof.

1. The State reserves the right to award the contract jointly between two or more potential Contractors, if such an arrangement is in the best interest of the State.
2. The Contractor shall agree to cooperate with such other Contractors, and shall not commit or permit any act which may interfere with the performance of work by any other Contractor.

H. INDEPENDENT CONTRACTOR

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of partners between the parties hereto. The Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services under the contract. The Contractor's employees and other persons engaged in work or services required by the Contractor under the contract shall have no contractual relationship with the State; they shall not be considered employees of the State.

All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination against the Contractor, its officers, or its agents) shall in no way be the responsibility of the State. The Contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights, or benefits from the State including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay or retirement benefits.

I. CONTRACTOR RESPONSIBILITY

The Contractor is solely responsible for fulfilling the contract, with responsibility for all services offered and products to be delivered as stated in the Request for Proposal, the Contractor's proposal, and the resulting contract. The Contractor shall be the sole point of contact regarding all contractual matters.

If the Contractor intends to utilize any Subcontractor's services, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Contractor's proposal. The Contractor shall agree that it will not utilize any Subcontractors not specifically included in its proposal in the performance of the contract, without the prior written authorization of the State. Following execution of the contract, the Contractor shall proceed diligently with all services and shall perform such services with qualified personnel in accordance with the contract.

J. CONTRACTOR PERSONNEL

The Contractor warrants that all persons assigned to the project shall be employees of the Contractor or specified Subcontractors, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work on the project.

Personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State. Replacement of key personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or Subcontractor employee.

In respect to its employees, the Contractor agrees to be responsible for the following:

1. any and all employment taxes and/or other payroll withholding;
2. any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. damages incurred by Contractor's employees within the scope of their duties under the contract;
4. maintaining workers' compensation and health insurance and submitting any reports on such insurance to the extent required by governing State law; and
5. determining the hours to be worked and the duties to be performed by the Contractor's employees.

K. CONTRACT CONFLICTS

Contractor shall insure that contracts or agreements with sub-contractors and agents, and the performance of services in relation to this contract by sub-contractors and agents, does not conflict with this contract.

L. STATE OF NEBRASKA PERSONNEL RECRUITMENT PROHIBITION

The Contractor shall not, at any time, recruit or employ any State employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

M. CONFLICT OF INTEREST

By submitting a proposal, bidder certifies that there does not now exist any relationship between the bidder and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal or project.

The bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest.

The bidder certifies that it will not employ any individual known by bidder to have a conflict of interest.

N. PROPOSAL PREPARATION COSTS

The State shall not incur any liability for any costs incurred by bidders in replying to this Request for Proposal, in the demonstrations and/or oral presentations, or in any other activity related to bidding on this Request for Proposal.

O. ERRORS AND OMISSIONS

The bidder shall not take advantage of any errors and/or omissions in this Request for Proposal or resulting contract. The bidder must promptly notify the State of any errors and/or omissions that are discovered.

P. BEGINNING OF WORK

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

Q. ASSIGNMENT BY THE STATE

The State shall have the right to assign or transfer the contract or any of its interests herein to any agency, board, commission, or political subdivision of the State of Nebraska. There shall be no charge to the State for any assignment hereunder.

R. ASSIGNMENT BY THE CONTRACTOR

The Contractor may not assign, voluntarily or involuntarily, the contract or any of its rights or obligations hereunder (including without limitation rights and duties of performance) to any third party, without the prior written consent of the State, which will not be unreasonably withheld.

S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL

The requirements contained in the Request for Proposal become a part of the terms and conditions of the contract resulting from this Request for Proposal. Any deviations from the Request for Proposal must be clearly defined by the bidder in its proposal and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the Request for Proposal, mandatory requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this RFP, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this RFP. The State discourages deviations and reserves the right to reject proposed deviations.

T. GOVERNING LAW

The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska regarding this Request for Proposal or any resultant contract shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. The Contractor must be in compliance with all Nebraska statutory and regulatory law.

U. ATTORNEY'S FEES

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Contractor agrees to pay all expenses of such action, as permitted by law, including attorney's fees and costs, if the State is the prevailing party.

V. ADVERTISING

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. News releases pertaining to the project shall not be issued without prior written approval from the State.

W. STATE PROPERTY

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

X. SITE RULES AND REGULATIONS

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to between the State and the Contractor.

Y. NOTIFICATION

During the bid process, all communication between the State and a bidder shall be between the bidder's representative clearly noted in its proposal and the buyer noted in Section II. A. Procuring Office and Contact Person, of this RFP. After the award of the contract, all notices under the contract shall be deemed duly given upon delivery to the staff designated as the point of contact for this Request for Proposal, in person, or upon delivery by U.S. Mail, facsimile, or e-mail. Each bidder should provide in its proposal the name, title, and complete address of its designee to receive notices.

1. Except as otherwise expressly specified herein, all notices, requests, or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth above, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) calendar days following deposit in the mail.
2. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay its timely performance under the contract, the Contractor shall immediately give notice thereof in writing to the State reciting all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the State of any of its rights or remedies to which it is entitled by law or equity or pursuant to the provisions of the contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

For the duration of the contract, all communication between Contractor and the State regarding the contract shall take place between the Contractor and individuals specified by the State in writing. Communication about the contract between Contractor and individuals not designated as points of contact by the State is strictly forbidden.

Z. EARLY TERMINATION

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
 - a. If directed to do so by statute;
 - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. A trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;

- d. Fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
- e. An involuntary proceeding has been commenced by any party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
- f. A voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
- g. Contractor intentionally discloses confidential information;
- h. Contractor has or announces it will discontinue support of the deliverable;
- i. Second or subsequent documented "vendor performance report" form deemed acceptable by the Agency; or
- j. Contractor engaged in collusion or actions which could have provided Contractor an unfair advantage in obtaining this contract.

AA. FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS

The State may terminate the contract, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for the contract. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of any termination, and advise the Contractor of the location (address and room number) of any related equipment. All obligations of the State to make payments after the termination date will cease and all interest of the State in any related equipment will terminate. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

BB. BREACH BY CONTRACTOR

The State may terminate the contract, in whole or in part, if the Contractor fails to perform its obligations under the contract in a timely and proper manner. The State may, by providing a written notice of default to the Contractor, allow the Contractor to cure a failure or breach of contract within a period of thirty (30) calendar days (or longer at State's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing the Contractor time to cure a failure or breach of contract does not waive the State's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

CC. ASSURANCES BEFORE BREACH

If any document or deliverable required pursuant to the contract does not fulfill the requirements of the Request for Proposal/resulting contract, upon written notice from the State, the Contractor shall deliver assurances in the form of additional Contractor resources at no additional cost to the project in order to complete the deliverable, and to ensure that other project schedules will not be adversely affected.

DD. ADMINISTRATION – CONTRACT TERMINATION

1. Contractor must provide confirmation that upon contract termination all deliverables prepares in accordance with this agreement shall become the property of the State of Nebraska; subject to the ownership provision (section E) contained herein, and is provided to the State of Nebraska at no additional cost to the State.
2. Contractor must provide confirmation that in the event of contract termination, all records that are the property of the State will be returned to the State within thirty (30) calendar days. Notwithstanding the above, Contractor may retain one copy of any information as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures.

EE. FORCE MAJEURE

Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The State may grant relief from performance of the contract if the Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the Contractor. To obtain release based on a Force

Majeure Event, the Contractor shall file a written request for such relief with the State Purchasing Bureau. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

FF. RIGHT TO AUDIT

Contractor shall establish and maintain a reasonable accounting system that enables the State to readily audit contract. The State and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this contract kept by or under the control of the Contractor, including, but not limited to those kept by the Contractor, its employees, agents, assigns, successors, and Subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

Contractor shall, at all times during the term of this contract and for a period of five (5) years after the completion of this contract, maintain such records, together with such supporting or underlying documents and materials. The Contractor shall at any time requested by the State, whether during or after completion of this contract and at Contractor's own expense make such records available for inspection and audit (including copies and extracts of records as required) by the State. Such records shall be made available to the State during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the State. Contractor shall ensure the State has these rights with Contractor's assigns, successors, and Subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any Subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to the State.

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by the State unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Contractor to the State in excess of one-half of one percent (.5%) of the total contract billings, the Contractor shall reimburse the State for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, the Contractor shall reimburse the State for total costs of audit. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the State's findings to Contractor.

GG. TAXES

The State is not required to pay taxes of any kind and assumes no such liability as a result of this solicitation. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

HH. INSPECTION AND APPROVAL

Final inspection and approval of all work required under the contract shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where the Contractor or Subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

II. CHANGES IN SCOPE/CHANGE ORDERS

The State may, upon the written agreement of Contractor, make changes to the contract within the general scope of the RFP. The State may, at any time work is in progress, by written agreement, make alterations in the terms of work as shown in the specifications, require the Contractor to make corrections, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. The Contractor shall not claim forfeiture of contract by reasons of such changes by the State. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, or a pro-rated value.

Corrections of any deliverable, service or performance of work required pursuant to the contract shall not be deemed a modification.

Changes or additions to the contract beyond the scope of the RFP are not permitted.

JJ. SEVERABILITY

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

KK. CONFIDENTIALITY

All materials and information provided by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information. All materials and information provided by the State or acquired by the Contractor on behalf of the State shall be handled in accordance with federal and state law, and ethical standards. The Contractor must ensure the confidentiality of such materials or information. Should said confidentiality be breached by a Contractor; Contractor shall notify the State immediately of said breach and take immediate corrective action.

It is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable to Contractors by 5 U.S.C. 552a (m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

LL. PROPRIETARY INFORMATION

Data contained in the proposal and all documentation provided therein, become the property of the State of Nebraska and the data becomes public information upon opening the proposal. If the bidder wishes to have any information withheld from the public, such information must fall within the definition of proprietary information contained within Nebraska's public record statutes. **All proprietary information the bidder wishes the State to withhold must be submitted in a sealed package, which is separate from the remainder of the proposal, and provide supporting documents showing why such documents should be marked proprietary.** The separate package must be clearly marked PROPRIETARY on the outside of the package. **Bidders may not mark their entire Request for Proposal as proprietary.** Bidder's cost proposals may not be marked as proprietary information. Failure of the bidder to follow the instructions for submitting proprietary and copyrighted information may result in the information being viewed by other bidders and the public. Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, bidders submitting information as proprietary may be required to prove specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive. Although every effort will be made to withhold information that is properly submitted as proprietary and meets the State's definition of proprietary information, the State is under no obligation to maintain the confidentiality of proprietary information and accepts no liability for the release of such information.

MM. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION/COLLUSIVE BIDDING

By submission of this proposal, the bidder certifies, that it is the party making the foregoing proposal and that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further that the bidder has not, directly or indirectly, submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

NN. STATEMENT OF NON-COLLUSION

The proposal shall be arrived at by the bidder independently and be submitted without collusion with, and without any direct or indirect agreement, understanding or planned common course of action with, any person; firm; corporation; bidder; Contractor of materials, supplies, equipment or services described in this RFP. Bidder shall not collude with, or attempt to collude with, any state officials, employees or agents; or evaluators or any person involved in this RFP. The bidder shall not take any action in the restraint of free competition or designed to limit independent bidding or to create an unfair advantage.

Should it be determined that collusion occurred, the State reserves the right to reject a bid or terminate the contract and impose further administrative sanctions.

OO. PRICES

All prices, costs, and terms and conditions outlined in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made or the Request for Proposal is cancelled.

Food/beverage prices quoted on the Cost Proposal form (Attachment A-Vending Machine Product List) shall remain fixed for the first year of the contract period if proposed food/beverage items remain the same. In the event of any changes to the food/beverage items offered after the first six (6) months, Nebraska Department of Roads (NDOR) will consider reviewing the changes to the selection of food/beverage items offered in order to meet the preferences of the NDOR customers. Any request for a price increase subsequent to the first year must be submitted in writing to NDOR a minimum of 30 days prior to proposed effective date of increase, and must show cause, and be accompanied by documentation justifying the price increase. The supporting documentation must clearly establish the increase is for all customers, not to the State of Nebraska alone. Further documentation may be required by NDOR to justify the increase. NDOR reserves the right to deny any requested price increase. No food/beverage price increases shall be effective prior to written amendment of the contract by the parties.

Bidder shall provide with their proposal response, Attachment C, Proposed Monthly Rent Payment per Vending Service Area. Rent proposed should be shown as a set firm price, (an exact dollar amount and not a percentage of other variable costs) per month per each vending service area. If a rental amount is proposed and accepted, the Contractor shall be required to make advance monthly rental payments to NDOR and made payable to Nebraska Department of Roads no later than the first day of each month beginning with the commencement of the contract.

Any request for a revision in the rental amount must be submitted in writing to the Nebraska Department of Roads a minimum of 30 days prior to proposed effective date of the revised rental amount and must show cause, and be accompanied by documentation justifying the revised rental amount. Further documentation may be required by NDOR to justify the revised rental amount. NDOR reserves the right to deny any requested revised rental amount. No revised rental amounts are to be submitted to NDOR prior to written amendment of the contract by the parties.

The State will be given full proportionate benefit of any price decrease during the term of the contract. Contractor represents and warrants that all prices for services, now or subsequently specified, are as low as and no higher than prices which the Contractor has charged or intends to charge customers other than the State for the same or similar products and services of the same or equivalent quantity and quality for delivery or performance during the same periods of time. If, during the term of the contract, the Contractor shall reduce any and/or all prices charged to any customers other than the State for the same or similar products or services specified herein, the Contractor shall make an equal or equivalent reduction in corresponding prices for said specified products or services.

Contractor also represents and warrants that all prices set forth in the contract and all prices in addition, which the Contractor may charge under the terms of the contract, do not and will not violate any existing federal, state, or municipal law or regulations concerning price discrimination and/or price fixing. Contractor agrees to hold the State harmless from any such violation. Prices quoted shall not be subject to increase throughout the contract period unless specifically allowed by these specifications.

PP. BEST AND FINAL OFFER

The State will compile the final scores for all parts of each proposal. The award may be granted to the highest scoring responsive and responsible bidder. Alternatively, the highest scoring bidder or bidders may be requested to submit best and final offers. If best and final offers are requested by the State and submitted by the bidder, they will be evaluated (using the stated criteria), scored, and ranked by the Evaluation Committee. The award will then be granted to the highest scoring bidder. However, a bidder should provide its best offer in its original proposal. Bidders should not expect that the State will request a best and final offer.

QQ. ETHICS IN PUBLIC CONTRACTING

No bidder shall pay or offer to pay, either directly or indirectly, any fee, commission compensation, gift, gratuity, or anything of value to any State officer, legislator, employee or evaluator based on the understanding that the receiving person's vote, actions, or judgment will be influenced thereby. No bidder shall give any item of value to any employee of the State Purchasing Bureau or any evaluator.

Bidders shall be prohibited from utilizing the services of lobbyists, attorneys, political activists, or consultants to secure the contract. It is the intent of this provision to assure that the prohibition of state contact during the procurement process is not subverted through the use of lobbyists, attorneys, political activists, or consultants. It is the intent of the State that the process of evaluation of proposals and award of the contract be completed without external influence. It is not the intent of this section to prohibit bidders from seeking professional advice, for

example consulting legal counsel, regarding terms and conditions of this Request for Proposal or the format or content of their proposal.

If the bidder is found to be in non-compliance with this section of the Request for Proposal, they may forfeit the contract if awarded to them or be disqualified from the selection process.

RR. INDEMNIFICATION

1. GENERAL

The Contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials (“the indemnified parties”) from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. INTELLECTUAL PROPERTY

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Subcontractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim. The Contractor may not settle any infringement claim that will affect the State’s use of the Licensed Software without the State’s prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State’s use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor’s sole cost and expense promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State’s behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State’s election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this RFP.

3. PERSONNEL

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel provided by the Contractor.

4. SELF-INSURANCE

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 *et seq.* and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

5. ALL REMEDIES AT LAW

Nothing in this agreement shall be construed as an indemnification by one party of the other for liabilities of a party or third parties for property loss or damage or death or personal injury arising out of and during the performance of this lease. Any liabilities or claims for property loss or damages or for death or personal injury by a party or its agents, employees, contractors or assigns or by third persons, arising out of and during the performance of this lease shall be determined according to applicable law.

SS. NEBRASKA TECHNOLOGY ACCESS STANDARDS

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-102.html> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor’s performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

TT. ANTITRUST

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

UU. DISASTER RECOVERY/BACK UP PLAN

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue services as specified under the specifications in the contract in the event of a disaster.

VV. TIME IS OF THE ESSENCE

Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a waiver of the requirement of timely performance of any obligations on the part of the Contractor remaining to be performed.

WW. RECYCLING

Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per Neb. Rev. Stat. § 81-15,159).

XX. DRUG POLICY

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

YY. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

The undersigned duly authorized representative of the Contractor, by signing this agreement, hereby attests to the truth of the following certifications, and agrees as follows:

Neb.Rev.Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Contractor shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all subcontractors, by contractual agreement, to require the same registration and verification process

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Roads website at <http://www.nebraskatransportation.org/projdev/docs/save/dr289.pdf>.

The completed United States Attestation Form should be submitted with the Request for Proposal response.
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

ZZ. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY

The Contractor, by signature to this RFP, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The Contractor also agrees to include the above requirements in any and all Subcontracts into which it enters. The Contractor shall immediately notify the Department if, during the term of this contract, Contractor becomes debarred. The Department may immediately terminate this contract by providing Contractor written notice if Contractor becomes debarred during the term of this contract.

Contractor, by signature to this RFP, certifies that Contractor has not had a contract with the State of Nebraska terminated early by the State of Nebraska. If Contractor has had a contract terminated early by the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early. Prior early termination may be cause for rejecting the proposal.

AAA. POLITICAL SUB-DIVISIONS

The Contractor may extend the contract to political sub-divisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political sub-divisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political sub-divisions or other public entities not authorized by Neb. Rev. Stat. § 81-145, listed as "all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations." A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

BBB. OFFICE OF PUBLIC COUNSEL

If it provides, under the terms of this contract and on behalf of the State of Nebraska, health and human services to individuals; service delivery; service coordination; or case management, Contractor shall submit to the jurisdiction of the Office of Public Counsel, pursuant to Neb. Rev. Stat. §§ 81-8,240 et seq. This section shall survive the termination of this contract and shall not apply if Contractor is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq.

CCC. LONG-TERM CARE OMBUDSMAN

If it is a long-term care facility subject to the Long-Term Care Ombudsman Act, Neb. Rev. Stat. §§ 81-2237 et seq., Contractor shall comply with the Act. This section shall survive the termination of this contract.

IV. PROJECT DESCRIPTION AND SCOPE OF WORK

The bidder must provide the following information in response to this Request for Proposal.

A. PROJECT OVERVIEW

The Nebraska Department of Roads, hereafter referred to as NDOR, is requesting proposals to provide management and operations of vending machine services at designated NDOR locations as identified in the Service Group chart below. Vending services includes the provision and installation of appropriate vending machines, initial stocking and ongoing replenishment of products based on customer preference and usage demands, and the maintenance and repair or the replacement of Contractor's vending machines at no cost to NDOR. NDOR reserves the right to relocate, drop or add vending locations at NDOR facilities within the Lincoln area. Additional vending locations will be at the "Optional" rent payment per vending service area as offered by the Bidder on the Bidder's Proposal/Attachment C-Proposed Monthly Rental Payment per Vending Service Area.

B. SCOPE OF WORK

1. The vending service operation shall be conducted to support the estimated population of the NDOR facilities as indicated below. The successful bidders will possess the right to sell food and non-alcoholic beverages to employees, clients and guests.
 - a. The use, sale, or serving of alcohol or alcoholic beverages on NDOR premises is absolutely prohibited except as provided in Nebraska RRS 53-186
2. The space for the vending machine areas will become available fifteen (15) business days prior to the awarded Contractor's start-up date. **Machines must be installed, stocked and ready for operations by the start-up date.**
3. All bidders must submit their proposed vending products with pricing (See Attachment A-Vending Machine Product List) in order for NDOR to conduct a Product Price Comparability Determination to evaluate if priority shall only be given to a blind person per Neb. Rev. Stat. § 71-8611.
4. The vending machines shall include a variety of products such as candy, snacks, chips, coffee, water, soda, and healthy food/beverage items.
5. The following chart breaks into service groups the locations requested for vending services, along with the space description, available electrical outlets, amenities, and estimated number of employees at each location. There will not be any vending machines requested for the 1400 Building, however; the employees in the 1400 building have access to the 1500 building. The estimated number of NDOR employees at the 1400 building is 65. The vending areas are open at all times to NDOR employees with access to the buildings.

| SERVICE GROUP CHART | | |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------|------------------------------|
| <i>Location</i> | <i>Description</i> | <i>Estimated # Employees</i> |
| SERVICE GROUP A Vending | | |
| Nebraska Department of Roads 1500 Building 1500 Nebraska Highway 2 | | 500 |
| 3rd Floor – Vending | 25 ft ² Vending Area in Hallway, 2 – 110V duplex outlets | |
| 2nd Floor – Vending | 42 ft ² Vending Area in Hallway, 3 – 110V duplex outlets | |
| LL– Vending | Vending area in cafeteria 175 ft ² , 6 – 110V duplex outlets | |
| SERVICE GROUP B Vending | | |
| Nebraska Department of Roads 1400 Building 1400 Nebraska Highway 2 | | 120 |

| SERVICE GROUP CHART | | |
|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Location | Description | Estimated # Employees |
| 1 st Floor – Vending | 32 ft ² Vending Area in 185 ft ² hallway, 3 – 110V duplex outlets In hallway; 5 tables and 10 chairs. | |
| SERVICE GROUP C Vending | | |
| Nebraska Department of Roads Building #00101 5001 S. 14th Street | | 76 |
| 1 st floor – Vending | 450 ft ² vending area, 3 – 110V duplex outlets Vending area adjacent to break room with sink, ice machine, 9 tables, and 15 chairs | |

C. PROJECT ENVIRONMENT

1. A Mandatory Pre-Proposal Conference and Walk Through will be held as indicated in the Schedule of Events.
2. Smoking is prohibited in the NDOR buildings and is only allowed in designated outdoor areas.
3. Upon award of the contract, the awarded Contractor will be provided with a list of NDOR contact information.
4. Restocking, collection of monies and maintenance/repairs to the various vending machines shall be made between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, excluding State Holidays. NDOR shall provide adequate access to the premises. Listed below are the delivery addresses:

| Building | Access to Facility |
|----------------------------------------------------------------------------------|--------------------------------------------------|
| Nebraska Department of Roads, Building #1500 1500 Nebraska Highway 2 | Dock on the North side of the building |
| Nebraska Department of Roads, Building #1400 1400 Nebraska Highway 2 | Dock on the North side of the building |
| Nebraska Department of Roads, Building #00101 5001 S. 14 th Street | Front entrance on the South side of the building |

State-observed holidays include the following:

| | |
|-----------------------------|-----------------------------------------------|
| New Year's Day | January 1 |
| Martin Luther King, Jr. Day | Third Monday in January |
| President's Day | Third Monday in February |
| Arbor Day | Last Friday in April |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 (or the nearest Friday or Monday) |
| Labor Day | First Monday in September |
| Columbus Day | Second Monday in October |
| Veteran's Day | November 11 |
| Thanksgiving Day | Fourth Thursday in November |
| Day after Thanksgiving | Friday following Thanksgiving |
| Christmas Day | December 25 (or the nearest Friday or Monday) |

5. **Facility Modifications:** Contractor shall not make any unapproved modifications to the building structure, electrical systems, plumbing, or any other changes to the premises. Should the Contractor desire any such modifications to the building, it may submit a written request to NDOR outlining the need and desire for such changes. If approved, the cost of any modifications or improvements shall be borne by the Contractor unless otherwise agreed upon between the parties. All modifications or improvements to the building must be approved by NDOR and shall become the property of NDOR upon the expiration or termination of the contract. NDOR shall be responsible for procuring and installation of any approved modifications or improvements.

6. Contractor will not place on the premises, any permanent signs, promotional posters, banners or similar materials without first obtaining NDOR's written approval. Contractor will also first obtain NDOR's written approval before placing or maintaining any lettering or advertising matter on the floor, wall, or any window or door of the premises or other areas of the facility. Contractor will maintain such approved signs, posters, banners, in good condition and repair at all times. All signs and signage will be at Contractor's expense. Bidder should submit as part of its proposal a written request outlining the need and desire and a description of any signage proposed.
7. The Contractor shall not provide or conduct any personal business on the premises. Any such solicitation shall be cause for termination of the contract.

D. TECHNICAL REQUIREMENTS

1. Contractor shall furnish, install, maintain, service, repair and/or replace vending machines at no cost to NDOR. At the time of installation, all vending machines are preferred to be energy star rated, current production models, in new or like-new condition. "Like-new vending machines" are defined as the latest state of the-art vending machines that are less than three (3) years old and/or have been refurbished immediately prior to installation. All vending machines must be properly wired and grounded and comply with applicable federal, state, and local codes and standards.

Bidders must submit with their proposal, a list of proposed vending machines by area (See Attachment B-Proposed Vending Machines Provided by Area). Bidders may also include in their proposal manufacturer's descriptive literature and/or advertising data sheets with photographs of the proposed vending machines.

2. Vending machines must meet and be in compliance with the 2010 American with Disability Act (ADA) Standards available at: www.ada.gov.
3. The Contractor shall comply with the Nebraska Department of Health Services regulations and any other regulations applicable to the operations of vending services, including the proper handling of food products and all necessary licenses, and permits.
4. All vending machines shall remain the responsibility of the Contractor.
5. The liability for all machines and contents including merchandise or cash stored within the machines shall remain the sole responsibility of the Contractor. The Contractor must assume all risks of theft, loss, or damage to the vending machines. NDOR shall not be responsible for any damage to merchandise or equipment due to high or low ambient temperatures.
6. Maintenance costs, repair costs, vending machine replacements, and cost of the State's use of the Contractor's vending machines shall be included in the price of the vending items sold.
7. Each vending machine shall have a bill acceptor that will accept \$1 and \$5 dollar bills and provide accurate change. Vending machines will not be operated in a "force vend" mode; machines shall be programmed to return customer's money if a selection is not available or a sale is voided.
8. Contractor is to supply all vending machines, including unload delivery vehicle and provide inside delivery and re-stock vending machines and have a minimum fill rate of 60%. The minimum restocking frequency for each vending machine will be once per month, regardless of sales, in order to ensure that products are within date code and machines are in proper operating condition. Empty cartons or trash generated by the Contractor must be removed from the premises. Bidders shall describe in their proposal their policies and procedures for stocking and re-stocking vending machines and ensuring the minimum fill rate is met.
9. **Desired Vending Machines:** The locations and desired vending machines are indicated in the chart below. NDOR reserves the right to relocate, drop or add vending placement locations at NDOR facilities within the Lincoln area. Additional vending locations will be at the "Optional" rent payment per vending service area as offered by the Bidder on the Bidder's Proposal/Attachment C-Proposed Monthly Rental Payment per Vending Service Area.

| Location | Desired Machines | Not Allowed |
|-----------------------------------------------|------------------|-------------|
| SERVICE GROUP A Vending | | |
| Nebraska Department of Roads 1500 Building | | |

| 1500 Nebraska Highway 2 | | |
|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 3rd Floor – Vending | Canned soda machine, snack machine. Contractor may provide a combination machine. The appropriate size machines must fit within the available space provided. | |
| 2nd Floor – Vending | Canned & 20 oz. bottled soda, water, juice, snack machine, & coffee machine. Contractor may provide combination machines. The appropriate size machines must fit within the available space provided. | |
| LL– Cafeteria/Vending Area | Canned soda machine, 20 oz. bottled soda/water, juice, snack machine, coffee machine. Contractor may provide combination machines. The appropriate size machines must fit within the available space provided. | |
| SERVICE GROUP B Vending | | |
| Nebraska Department of Roads 1400 Building 1400 Nebraska Highway 2 | | |
| 1 st Floor – Vending | Canned soda machine, 20 oz. bottled soda/water machine, snack machine, coffee machine. Contractor may provide combination machines. The appropriate size machines must fit within the available space provided. | |
| SERVICE GROUP C Vending | | |
| Nebraska Department of Roads Building #00101 5001 S. 14th Street | | |
| 1 st floor – Vending | Canned soda machine, 20 oz. bottled soda/water, juice machine, snack machine, coffee machine. Contractor may provide combination machines. The appropriate size machines must fit within the available space provided. | |

10. Upon expiration or termination of the contract, the Contractor must remove all machines within fifteen (15) business days of notification at no cost to NDOR.
11. Any microwave ovens used in conjunction with a vending operation must be approved in writing by NDOR prior to installation.
12. **Service of Vending Machines:** Contractor shall maintain and repair vending machines as needed or upon request at no cost to NDOR. All vending machines shall be properly identified with a label to include service/repair information. The label must include a local or toll free number that may be used for inquires, or reporting empty or out of order conditions or requests for refunds.

Contractor shall respond to service calls within twenty four (24) hours and complete repairs within forty-eight (48) hours of notification, during normal business hours. The response time for service calls apply to any service request between the hours of 8:00 A.M. through 5:00 P.M. Monday through Friday, excluding State Holidays. Contractor shall notify NDOR if the vending machine is inoperable due to repairs and if the repairs will exceed two (2) business days.

In the event, a vending machine malfunctions and/or breaks down more than three (3) times in a one (1) month period, the Contractor shall replace the equipment. Replacement of non-functional machines must be addressed within two (2) weeks of notification to NDOR.

13. Contractor's representative(s) shall keep the premises in the immediate vicinity of vending machines clean of spillage and waste; and at all times keep the machines and equipment in a clean, sanitary, neat and orderly condition inside and out.

14. **Wellness Healthy Food Products:** It is desired to have the Contractor include healthy food products which encourage a healthy lifestyle by making healthier choices more plentiful, and more visible. Bidder should include implementation of promoting healthy food products in their proposal.

Wellness 'Healthy Food' Criteria:

Foods:

Less than 500 calories per serving

Less than 20% of total calories (% daily value) from Total Fat per serving (Nuts and seeds exempt from restrictions.)

Less than 25 grams of Carbohydrates per serving (Fruit in any form is permitted, regardless of carbohydrate count.)

Less than 200 mg sodium per serving

Beverages:

Juice: Fruit and vegetable juices should contain 100% juice

Low-calorie: Beverages containing less than 50 calories per 12 oz. serving

15. **Products:** The Contractor is required to stock only recognizable National Brand products. Use of generic brands, non-labeled products and products that do not have labels indicating portion size, ingredients, and caloric and nutritional values are not acceptable. The Contractor shall provide a wide variety of snacks, including 15%-20% of product offering as healthy snack options. NDOR has the right to approve and/or disapprove the product mix of items provided for each vending machine and the various flavors or kind of products to be vended. This includes the right to request the removal of products that do not meet the requirements and to approve additional products in the vending machines as customers' demands change and new products become available, including healthy choice products. NDOR will communicate requested changes through email or at face to face meetings to determine which products should be vended. Contractor will have a maximum of thirty (30) days to make requested changes.

16. **A Product Price Comparability Determination** will be determined by requiring all bidders to submit their proposed products with pricing in order for the State to conduct a Product Price Comparability Determination to evaluate if priority shall only be given to a blind person per Neb. Rev. Stat. §71-8611. The bidder must include the following in their proposed product/price list (See Attachment A-Vending Machine Product List):

a. **Carbonated Soft Drinks (Minimum)**

- Six (6) types of regular 12 oz. name brand carbonated soft drinks (can)
- Six (6) types of diet 12 oz. name brand carbonated soft drinks (can)
- Six (6) types of regular 20 oz. name brand carbonated soft drinks (bottle)
- Six (6) types of diet 20 oz. name brand carbonated soft drinks (bottle)

b. **Bottled Water, Sports or Energy Drinks, Bottled Fruit Juice Drinks (Minimum)**

- Two (2) type of 20 oz. name brand bottled water
- Two (2) types of name brand sports or energy drink, approx. 16 oz.
- Two (2) types of name brand bottled fruit juice drinks (approx. 15 oz.)

c. **Coffee, Hot Tea, Hot Chocolate (Minimum)**

- Five (5) types of name brand coffee, 10 oz. and 12 oz. servings
- One (1) type of name brand hot tea, 10 oz. and 12 oz. servings
- One (1) type of name brand hot chocolate, 10 oz. and 12 oz. servings

d. **Chips, Pretzels, Packaged Cookies (Minimum)**

- Six (6) types of name brand chips, approx. 2 oz. bags
- One (1) type of name brand pretzel, approx. 2 oz. bags
- Two (2) types of name brand packaged cookies, approx. 2 oz. bags
- One (1) type of name brand packaged sandwich crackers, vending size

e. **Breakfast Foods (Minimum) (Including Pop Tarts, Mini Donuts, Packaged Pastries)**

- Three (3) types of name brand breakfast foods, such as pop tarts, mini donuts, or packaged pastries, vending size

f. **Candy, Gum (Minimum)**

- Ten (10) types of name brand chocolate candy
- Five (5) types of name brand non-chocolate candy
- Three (3) types of name brand of gum

g. **Healthy Snacks (Minimum)**

- Three (3) types of name brand of nuts/seeds, may include peanuts, almonds, sunflower seeds, or a sweet & salty mix product, vending size
- One (1) type of name brand dried fruit snack, such as raisins, vending size
- Two (2) types of granola and/or cereal bars, vending size
- Two (2) types of name brand baked chips
- Two (2) type of name brand healthy crackers such as multigrain, low salt, or reduced fat crackers, vending size

17. Contractors shall ensure all products dispensed from machines are fresh and there are no stale or out of date products. Any vending products past its expiration date must be removed from the vending machine. Bidders shall provide in their proposal their procedures of assuring freshness of products that are on sale in the vending machines.

E. PERSONNEL

1. Bidder must provide a proposed staffing matrix that identifies the staffing organization, functional responsibilities and key personnel as described in Section V- Corporate Overview of the RFP.
2. The Contractor must ensure that service and maintenance technicians present a neat appearance and are easily recognized by wearing distinctive clothing bearing the name of the Contractor or by wearing appropriate badges that contain the company and employee names.
3. Contractor's employees shall treat NDOR personnel and/or the public in a friendly and respectable manner. The Contractor shall be responsible for the behavior of their employees in relation to NDOR personnel and the public at all times and shall take all necessary and appropriate steps to ensure that their employees conduct themselves in accordance with the requirements of the RFP.
4. Contractor personnel will observe all regulations of NDOR. Regulations may include but are not limited to offensive conduct, gambling, alcohol and tobacco use and evacuation procedures.
5. Contractor shall comply with all governmental regulations pertaining to vending machine service personnel in regard to health examinations, certification, licenses, permits or any other matter pertinent to such employees and supply NDOR with certification of compliance upon request.

F. UTILITIES, AND SPACE

1. NDOR will authorize the placement of vending machines in designated space and locations in NDOR facilities as described under section D. Technical Requirement, Desired Vending Machines. All vending machines shall not in any way interfere with emergency exits or access. The appropriate size vending machine must fit within the available provided space.
2. NDOR shall provide heating, electrical power, and air conditioning service to the premises to the same extent as provided to all other areas within the facility.
3. Any additional electrical outlets and/or modifications required by the Contractor for vending machine operations shall need NDOR's prior review and written approval and shall be at the Contractor's expense. NDOR will be responsible for the procurement process and installation of any additional electrical outlets and/or modifications.
4. NDOR will not guarantee an uninterrupted supply of water, electricity, gas, heat or air conditioning. NDOR will be diligent in restoring service following an interruption but will not be liable for any product loss or loss of profit which may result from the interruption or failure of any utility service.
5. Contractor will implement energy conservation practices designed to control utility costs where practical to do so.

G. PRICING

1. All bidders must submit their proposed vending products with pricing (See Attachment A-Vending Machine Product List) in order for NDOR to conduct a Product Price Comparability Determination to evaluate if priority shall only be given to a blind person per Neb. Rev. Stat. § 71-8611.
2. Food/beverage prices quoted on the Cost Proposal form (Attachment A-Vending Machine Product List) shall remain fixed for the first year of the contract period if proposed food/beverage items remain the same. In the event of any changes to the food/beverage items offered after the first six (6) months, Nebraska Department of Roads (NDOR) will consider reviewing the changes to the selection of food/beverage items offered in order to meet the preferences of the NDOR customers. Any request for a price increase subsequent to the first year must be submitted in writing to NDOR a minimum of 30 days prior to proposed effective date of increase, and must show cause, and be accompanied by documentation justifying the price increase. The supporting documentation must clearly establish the increase is for all customers, not to the State of Nebraska alone. Further documentation may be required by NDOR to justify the increase. NDOR reserves the right to deny any requested price increase. No food/beverage price increases shall be effective prior to written amendment of the contract by the parties.
3. **Taxes:** Refer to Section III Terms and Conditions, GG. Taxes.

H. BUSINESS REQUIREMENTS

1. Rent Payments

Bidder shall provide with their proposal response, Attachment C, Proposed Monthly Rent Payment per Vending Service Area. Rent proposed should be shown as a set firm price, (an exact dollar amount and not a percentage of other variable costs) per month per each vending service area. If a rental amount is proposed and accepted, the Contractor shall be required to make advance monthly rental payments to NDOR and made payable to Nebraska Department of Roads no later than the first day of each month beginning with the commencement of the contract.

Any request for a revision in the rental amount must be submitted in writing to the Nebraska Department of Roads a minimum of 30 days prior to proposed effective date of the revised rental amount and must show cause, and be accompanied by documentation justifying the revised rental amount. Further documentation may be required by NDOR to justify the revised rental amount. NDOR reserves the right to deny any requested revised rental amount. NDOR reserves the right to deny any requested revised rental amount. No revised rental amounts are to be submitted to NDOR prior to written amendment of the contract by the parties.

2. Refund Monies

Contractor will provide a system for refunding of monies when customers do not receive product due to a machine malfunction. Bidders shall submit with their proposals a refund procedure and policy including a timeline for refunds to be issued (which shall not exceed ten (10) calendar days).

3. Maintenance and Repair of the Building

NDOR, at its sole expense, will maintain, in good condition and repair, the demised premises including reasonable wear and tear. Contractor shall be responsible for the expense of repairs for damages resulted by reason of the acts, misuse or neglect of Contractor, its employees, agents, invitees, licensees or contractors.

4. Annual Review and Special Meetings

NDOR designated representative and the contractor shall meet annually to formally review service, pricing, customer likes, and dislikes, and other operational issues. NDOR and the Contractor may meet more often upon request of either party.

I. DELIVERABLES

The deliverables should be detailed on the attached; Vending Machine Product List (Attachment A); and Proposed Vending Machines to be Provided by Area (Attachment B). Each of the attachments shall be filled out completely and included with the proposal.

Facsimiles of these forms may be used if they include all of the required data elements. Lines may be added to the tables if needed to submit complete information.

V. PROPOSAL INSTRUCTIONS

This section documents the mandatory requirements that must be met by bidders in preparing the Technical and Cost Proposal. Bidders should identify the subdivisions of "Project Description and Scope of Work" clearly in their proposals; failure to do so may result in disqualification. Failure to respond to a specific requirement may be the basis for elimination from consideration during the State's comparative evaluation.

Proposals are due by the date and time shown in the Schedule of Events. Content requirements for the Technical and Cost Proposal are presented separately in the following subdivisions, format and order:

A. PROPOSAL SUBMISSION

1. REQUEST FOR PROPOSAL FORM

By signing the "Request for Proposal for Contractual Services" form, the bidder guarantees compliance with the provisions stated in this Request for Proposal, agrees to the Terms and Conditions stated in this Request for Proposal unless otherwise agreed to, and certifies bidder maintains a drug free work place environment.

The Request for Proposal for Contractual Services form must be signed in ink and returned by the stated date and time in order to be considered for an award.

2. CORPORATE OVERVIEW

The Corporate Overview section of the Technical Proposal should consist of the following subdivisions:

a. BIDDER IDENTIFICATION AND INFORMATION

The bidder must provide the full company or corporate name, address of the company's headquarters, entity organization (corporation, partnership, proprietorship), state in which the bidder is incorporated or otherwise organized to do business, year in which the bidder first organized to do business, and whether the name and form of organization has changed since first organized.

b. FINANCIAL STATEMENTS

The bidder must provide financial statements applicable to the firm. If publicly held, the bidder must provide a copy of the corporation's most recent audited financial reports and statements, and the name, address, and telephone number of the fiscally responsible representative of the bidder's financial or banking organization.

If the bidder is not a publicly held corporation, either the reports and statements required of a publicly held corporation, or a description of the organization, including size, longevity, client base, areas of specialization and expertise, and any other pertinent information, must be submitted in such a manner that proposal evaluators may reasonably formulate a determination about the stability and financial strength of the organization. Additionally, a non-publicly held firm must provide a banking reference.

The bidder must disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals, which might materially affect the viability or stability of the organization, or state that no such condition is known to exist.

The State may elect to use a third-party to conduct credit checks as part of the corporate overview evaluation.

c. CHANGE OF OWNERSHIP

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, the bidder must describe the circumstances of such change and indicate when the change will likely occur. Any change of ownership to an awarded vendor(s) will require notification to the State.

d. OFFICE LOCATION

The bidder's office location responsible for performance pursuant to an award of a contract with the State of Nebraska must be identified.

e. RELATIONSHIPS WITH THE STATE

The bidder shall describe any dealings with the State over the previous five (5) years. If the organization, its predecessor, or any party named in the bidder's proposal response has contracted with the State, the bidder shall identify the contract number(s) and/or any other information available to identify such contract(s). If no such contracts exist, so declare.

f. BIDDER'S EMPLOYEE RELATIONS TO STATE

If any party named in the bidder's proposal response is or was an employee of the State within the past twelve (12) months, identify the individual(s) by name, State agency with whom employed, job title or position held with the State, and separation date. If no such relationship exists or has existed, so declare.

If any employee of any agency of the State of Nebraska is employed by the bidder or is a Subcontractor to the bidder, as of the due date for proposal submission, identify all such persons by name, position held with the bidder, and position held with the State (including job title and agency). Describe the responsibilities of such persons within the proposing organization. If, after review of this information by the State, it is determined that a conflict of interest exists or may exist, the bidder may be disqualified from further consideration in this proposal. If no such relationship exists, so declare.

g. CONTRACT PERFORMANCE

If the bidder or any proposed Subcontractor has had a contract terminated for default during the past five (5) years, all such instances must be described as required below. Termination for default is defined as a notice to stop performance delivery due to the bidder's non-performance or poor performance, and the issue was either not litigated due to inaction on the part of the bidder or litigated and such litigation determined the bidder to be in default.

It is mandatory that the bidder submit full details of all termination for default experienced during the past five (5) years, including the other party's name, address and telephone number. The response to this section must present the bidder's position on the matter. The State will evaluate the facts and will score the bidder's proposal accordingly. If no such termination for default has been experienced by the bidder in the past five (5) years, so declare.

If at any time during the past five (5) years, the bidder has had a contract terminated for convenience, non-performance, non-allocation of funds, or any other reason, describe fully all circumstances surrounding such termination, including the name and address of the other contracting party.

h. SUMMARY OF BIDDER'S CORPORATE EXPERIENCE

The bidder shall provide a summary matrix listing the bidder's previous projects similar to this Request for Proposal in size, scope and complexity. The State will use no more than three (3) narrative project descriptions submitted by the bidder during its evaluation of the proposal.

The bidder must address the following:

- i. Provide narrative descriptions to highlight the similarities between the bidder's experience and this Request for Proposal. These descriptions must include:
 - a) the time period of the project;
 - b) the scheduled and actual completion dates;
 - c) the Contractor's responsibilities;
 - d) for reference purposes, a customer name (including the name of a contact person, a current telephone number, a facsimile number, and e-mail address); and
 - e) each project description shall identify whether the work was performed as the prime Contractor or as a Subcontractor. If a bidder performed as the prime Contractor, the description must provide the originally scheduled completion date and budget, as well as the actual (or currently planned) completion date and actual (or currently planned) budget.
- ii. Contractor and Subcontractor(s) experience must be listed separately. Narrative descriptions submitted for Subcontractors must be specifically identified as Subcontractor projects.

- iii. If the work was performed as a Subcontractor, the narrative description shall identify the same information as requested for the Contractors above. In addition, Subcontractors shall identify what share of contract costs, project responsibilities, and time period were performed as a Subcontractor.

i. SUMMARY OF BIDDER'S PROPOSED PERSONNEL/MANAGEMENT APPROACH

The bidder must present a detailed description of its proposed approach to the management of the project.

The bidder must identify the specific professionals who will work on the State's project if their company is awarded the contract resulting from this Request for Proposal. The names and titles of the team proposed for assignment to the State project shall be identified in full, with a description of the team leadership, interface and support functions, and reporting relationships. The primary work assigned to each person should also be identified.

The bidder shall provide resumes for all personnel proposed by the bidder to work on the project. The State will consider the resumes as a key indicator of the bidder's understanding of the skill mixes required to carry out the requirements of the Request for Proposal in addition to assessing the experience of specific individuals.

Resumes must not be longer than three (3) pages. Resumes shall include, at a minimum, academic background and degrees, professional certifications, understanding of the process, and at least three (3) references (name, address, and telephone number) who can attest to the competence and skill level of the individual. Any changes in proposed personnel shall only be implemented after written approval from the State.

j. SUBCONTRACTORS

If the bidder intends to subcontract any part of its performance hereunder, the bidder must provide:

- i. name, address, and telephone number of the Subcontractor(s);
- ii. specific tasks for each Subcontractor(s);
- iii. percentage of performance hours intended for each subcontract; and
- iv. total percentage of Subcontractor(s) performance hours.

3. TECHNICAL APPROACH

The technical approach section of the Technical Proposal must consist of the following subsections:

- a. understanding of the Vending Machine Service requirements: services to be performed;
- b. proposed approach to installation of machines, including but not limited to: the ability of the bidder to meet the proposed start date;
- c. proposed approach to the operation of vending machines, including but not limited to: policies and procedures for stocking and restocking vending machines and ensuring the minimum fill rate of 60% is met; policy for refund;
- d. proposed approach to service of machines: maintenance and repair of machines, including response time of service calls, completion of repairs within 48 hours of notification, and machine replacements;
- e. alternatives, unique or innovative ideas to provide vending machine service to NDOR; and
- f. deliverables and due dates: Attachment A: proposed variety and brands of vending products with sizes, prices, and healthy food choices; Attachment B: list of proposed vending machines, including Make/Model and Year of each proposed machine and whether the machine is Energy Star Rated and ADA compliant.

B. COST PROPOSAL REQUIREMENTS

This section describes the requirements to be addressed by bidders in preparing the Cost Proposal. The bidder must submit the Cost Proposal in a section of the proposal that is a separate section or is packaged separately as specified in this RFP from the Technical Proposal section.

The component costs of the fixed price proposal for providing the services set forth in the Request for Proposal must be provided by submitting forms substantially equivalent to those described below.

1. PRICING SUMMARY

This summary shall present the total firm fixed rental dollars proposed. Rent proposed should be shown as a set price (an exact dollar amount and not a percentage of other variable costs) per month per each

vending service area. If a rental amount is proposed and accepted, the Contractor shall be required to make advance monthly rental payments to NDOR and made payable to Nebraska Department of Roads no later than the first day of each month beginning with the commencement of the contract. The State reserves the right to review all aspects of the Cost Proposal for reasonableness and to request clarification of any proposals where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required

2. PRICES

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Request for Proposal. No additional charges will be allowed for packing, packages, or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

C. PAYMENT SCHEDULE

The payment schedule for the project is tied to specific dates and deliverables. Bidders shall provide in the cost section of the proposal, the proposed monthly rental payment per vending service area as listed on the proposal form.

If a rental amount is proposed and accepted the Contractor shall be required to make advance monthly rental payments to NDOR, made payable to Nebraska Department of Roads, no later than the first day of each month beginning with commencement of the contract.

Form A

Bidder Contact Sheet

Request for Proposal Number R20-16

Form A should be completed and submitted with each response to this Request for Proposal. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response.

| Preparation of Response Contact Information | |
|---------------------------------------------|--|
| Bidder Name: | |
| Bidder Address: | |
| Contact Person & Title: | |
| E-mail Address: | |
| Telephone Number (Office): | |
| Telephone Number (Cellular): | |
| Fax Number: | |

Each bidder shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

| Communication with the State Contact Information | |
|--------------------------------------------------|--|
| Bidder Name: | |
| Bidder Address: | |
| Contact Person & Title: | |
| E-mail Address: | |
| Telephone Number (Office): | |
| Telephone Number (Cellular): | |
| Fax Number: | |

Form B

Notification of Intent to Attend Pre-Proposal Conference

Request for Proposal Number R20-16

| | |
|----------------------|--|
| Bidder Name: | |
| Bidder Address: | |
| Contact Person: | |
| E-mail Address: | |
| Telephone Number: | |
| Fax Number: | |
| Number of Attendees: | |

The "Notification of Intent to Attend Pre-Proposal Conference" form should be submitted to the Nebraska Department of Roads via e-mail (DOR.OperationsProcurement@nebraska.gov), facsimile (402) 479-4567, hand delivered or US Mail by the date shown in the Schedule of Events.