



State of Minnesota

Equity Select Contract

SWIFT Contract Number: _____

This contract is for use with TG/ED/VO vendors ONLY for contracts up to \$100,000. The terms and conditions referenced in Clause 6 are not subject to negotiation or modification.

Instructions: Instructions for completing this form are in red. Fill in every blank and **delete all instructions** before sending this to the Contractor. Include an encumbrance worksheet in order to assist with encumbering the money for this Contract.

This Contract is between the State of Minnesota, acting through its **Example: “Commissioner of [insert name of agency or board]” or “Director of [insert name]”** (“State”) and **[Contractor]** whose designated business address is **[Contractor’s business address]** (“Contractor”). State and Contractor may be referred to jointly as “Parties.”

Recitals

Instruction: Modify the Recitals section as necessary to address the specifics of the contract history. The text below is sample language that may be used when the contract was solicited.

1. State agencies may enter into a contract for goods, general services, or professional/technical services up to \$100,000 total value, including all extension options, with a Targeted Group, Economically Disadvantaged, or Veteran-Owned small business, as defined in Minnesota law.
2. The State is in need of **[Add brief narrative of the purpose of the contract]**.

Accordingly, the Parties agree as follows:

Contract

1. Term of Contract

- 1.1 Effective date. **[Spell out full date (e.g., April 1, 2019)]**, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State’s Authorized Representative to begin the work.
- 1.2 Expiration date. **[Spell out full date (e.g., March 31, 2020)]**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2. Contractor’s Duties

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

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

[Provide sufficient detail in the duties so that you can determine whether to approve the goods or services or hold the Contractor accountable for this work. Do this by either: 1) listing the Contractor's duties, deliverables, and completion dates with precise detail here, or 2) using an exhibit that contains the precise duties, specifications, and deliverables.

Attaching the Contractor's proposal as an exhibit is not the preferred way of incorporating the Contractor's scope of work into the Contract; however, when it is necessary, be sure to delete all problematic/illegal contract clauses from the proposal then add the following clause to this Contract section, "no terms or conditions of the Contractor's proposal will be construed to modify, diminish, or derogate the terms and conditions of this Contract."]

3. Payment and Invoicing

The total obligation of the State under this Contract will not exceed \$[###]. Contractor shall be paid [Select one: "a fixed price of \$###" or "hourly rate of \$###"]. Contractor shall submit invoices no more frequently than every thirty (30) days. DO NOT add sales tax to the contract prices unless otherwise instructed by the State. Agencies will pay all applicable taxes directly to the Department of Revenue. Per Department of Revenue Tax Fact Sheet 142, State agencies are not required to submit an ST3 form to their suppliers. See [Department of Revenue, Fact Sheets](#).

4. Authorized Representative

The State's Authorized Representative is [name, title, address, telephone number], or his/her successor or delegate, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this Contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance of each invoice submitted for payment.

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

5. Insurance

[General insurance requirements are included in Exhibit A. ALP Manual section 2.40 indicates that insurance is required for general services but is not required for conferences held at the vendor's facility or for commodities that are "off the shelf." If no insurance is required, remove the attachment and change the sentence below to the phrase "(Intentionally left blank)." Encourage the Contractor to discuss the insurance requirements with their insurance advisor. Insurance protects the State as well as the assets of the Contractor. The cost of insurance is a business expense, which can be included in the Contractor's bid. Agencies have the authority to make a business decision and decide on different levels of coverage, after assessing the risk that the Contractor's work poses to the agency, its stakeholders, and third parties. These decisions should be made in consultation with agency leadership since they could impact the agency's budget if the Contractor has insufficient insurance to pay claims.

Although the decision to choose different levels of insurance is up to your agency, you may consult with Risk Management to help your agency decide if different levels of coverage are appropriate, or if additional

insurance is needed, such as network security, privacy liability, property of others, professional liability, etc. Contact the Department of Administration's Risk Management office at 651-201-2591.

If insurance requirements are removed from the contract, please complete an [insurance adjustment form.](#)

The insurance requirements are set forth in Exhibit A – General Insurance Requirements, which is hereby attached and incorporated.

6. Terms and Conditions

The document entitled Equity Select Terms and Conditions is incorporated herein by reference and is available at www.mmd.admin.state.mn.us/pdf/EquitySelectT&C.pdf. The following clauses are hereby added to the Survival of Terms clause: Payment and Invoicing; and Insurance (if applicable).

7. Non-Minnesota Contractors

Minn. Stat. § 290.9705 requires public entities to deduct and withhold eight (8) percent of cumulative calendar year payments to Non-Minnesota Contractors which exceed \$50,000. The statute allows for an exemption of this requirement under specific circumstances that are listed in the "Reason for Exemption" section of the Exemption from Surety Deposits for Non-Minnesota Contractors Form (see link below). The Contractor must file a separate application for exemption for each contract.

In order to formalize this exemption you must, prior to being sent a Contract, complete this Form available at https://www.revenue.state.mn.us/sites/default/files/2022-03/sde_21.pdf, and submit to Minnesota Revenue. If approved, provide the ordering entity with a copy executed by Minnesota Revenue. The address to send the form for execution is:

Minnesota Revenue
Mail Section 5410
St. Paul, MN 55146-5410

8. **Solicitation Security** [Include this clause for one-time construction solicitations estimated to exceed \$50,000.00.]

Responses that exceed \$50,000.00 must be accompanied by a surety bond of a surety company duly authorized to do business in the State of Minnesota; in an amount equal to five percent (5%) of the total amount of the response, which is submitted as a solicitation security conditioned upon the Responder entering into a contract with the State of Minnesota in accordance with the terms of the solicitation. Responders must upload a copy of their surety bond as prompted in the solicitation. The State reserves the right to require the Contractor to provide the original surety bond to the State. If such a request is made, the Contractor must submit the original surety bond within seven (7) calendar days upon receipt of the request. If the original surety bond is not received within seven (7) calendar days of receipt of the request, the State may take action including rejection of the response or cancellation of the contract for cause.

If the solicitation security is in the form of a certified check, cashier's check, or money order made payable to the State of Minnesota, it must be received by the Department of Administration, Office of State Procurement at the address identified below in a clearly marked and sealed envelope no later than the due date and time indicated in the solicitation. Late submissions will result in rejection of your response. Facsimile or copies of a certified check, cashier's check, or money order will not be accepted.

[Modify address as necessary to fit your solicitation. Remember to revise the location reference in the second paragraph above.)

Department of Administration, Office of State Procurement
50 Sherburne Avenue, Suite #112
St. Paul, MN 55155

1. State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05

Print Name: _____

Signature: _____

Title: _____ Date: _____

SWIFT Contract No. _____

2. Contractor

The Contractor certifies that the appropriate person has executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print Name: _____

Signature: _____

Title: _____ Date: _____

3. State Agency

With delegated authority

Print Name: _____

Signature: _____

Title: _____ Date: _____

4. Commissioner of Administration

As delegated to The Office of State Procurement

Print Name: _____

Signature: _____

Title: _____ Date: _____

Admin ID: _____

EXHIBIT A -- GENERAL INSURANCE REQUIREMENTS

Before work begins, the Contractor must have the insurance described below, and the State must have approved that insurance. The Contractor must maintain that insurance throughout the term of the contract. The Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State for any claim arising out of Contractor's performance under this Contract. The Contractor's Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract. The Contractor is responsible for payment of Contract related insurance premiums and deductibles.

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

State may request a Certificate of Insurance at any time and may terminate the Contract immediately if the Contractor is not in compliance with the insurance requirements. If the Contractor receives a cancellation notice for any policies providing coverage for this Contract, the Contractor must notify the state within five (5) days and provide the State with a copy of the notice; this requirement does not apply if the policy itself requires thirty (30) days advance written notice to the State before a policy may be canceled.

The State does not waive Contractor's insurance requirements by either: 1) failing to request a Certificate of Insurance for policies or renewals; or 2) by the insurance company's or Contractor's failure to notify State of cancellation of the policies providing coverage for this Contract.

POLICY REQUIREMENTS:

1. **Workers' Compensation Insurance:**

Unless Minn. Stat. § 176.041 exempts Contractor from Worker's Compensation insurance, Contractor must provide statutory Workers' Compensation insurance for all its employees and in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota.

2. **Automobile Liability Insurance** (applicable ONLY if the contractor, contractor's employees or subcontractors will be using owned, hired or non-owned vehicles to conduct business on behalf of the state or they will be driving on state property)

- A. Minimum Limits of Liability is \$2,000,000 - Per Occurrence – Bodily Injury and Property Damage Combined Single Limit
- B. Coverages must include: Owned Automobile, Non-owned Automobile, and Hired Automobile

3. **General Liability Insurance:**

- A. Minimum Limits of Liability:
 - \$2,000,000 - Per Occurrence
 - \$2,000,000 - Annual Aggregate
 - \$2,000,000 - Annual Aggregate applying to Products/Completed Operations

B. Coverages

- Premises and Operations Bodily Injury and Property Damage
- Personal & Advertising Injury
- Blanket Contractual
- Products and Completed Operations
- State of Minnesota named as an Additional Insured***