



Request for Proposal Process Workgroup

Final Report

January 1, 2015

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Mission and Objectives

As part of his mission to streamline government processes, Governor Dugaard initiated a review of the state government Request for Proposal (RFP) process. Two primary goals of the review were to ensure that our RFP process is as efficient as possible and to provide a guidance resource for state government agencies.

In June 2014 a workgroup was formed by the Governor's Office to explore best practices related to every aspect of the RFP process. The workgroup met from June 2014 through August 2014 culminating with the issuance of this report. Members of the workgroup included:

Member	Agency
Laura Ringling	Governor's Office
Brett Arenz	Department of Education
Steve Berg	Administration
Scott Bollinger	Corrections
Mark Close	Department of Social Services
Kevin Fridley	Administration
Jeff Holden	Administration
Chris Houlette	Human Resources
Dan Lusk	Human Services
Mark Mayer	Environment & Natural Resources
William Nevin	Transportation
Debra Owen	Human Resources
Tom Steckel	Human Resources
Justin Williams	Health

Overview of Request for Proposal (RFP) Process

Under South Dakota law, there are five methods for awarding contracts for supplies, services, and construction. One of these methods is competitive sealed proposals. SDCL 5-18A-3. Competitive sealed proposals are solicited through a request for proposals. SDCL 5-18A-7. A request for proposal (RFP) is defined by SDCL 5-18A-1 as "any document, whether attached or incorporated by reference, utilized by a purchasing agency when soliciting proposals for contracts for the procurement of supplies, services, or construction[.]" An RFP typically outlines the proposal process and contract terms and provides guidance on how the proposal should be formatted and presented. The quality of an RFP is very important to successful project management because it clearly delineates the deliverables that will be required. The requirements of the South Dakota state government RFP process are outlined in this section.

Role of Bureau of Administration

There is no requirement that agencies use Bureau of Administration (BOA) staff or services to complete their RFP processes. However, BOA will provide assistance to agencies upon request.

Services provided by BOA include:

- Assisting the agency in preparing an RFP in proper format;
- Reviewing RFP language and making language recommendations;
- Providing guidance on the RFP process;
- Training agencies on posting RFPs to the electronic procurement system; and
- Posting RFPs on the electronic procurement system.

BOA will not assist in determining whether a requested service is considered a professional service or whether the service requested is exempt from statute. Additionally, BOA will not prepare a scope of work, determine evaluation criteria, or participate as an active evaluation or negotiation team member.

Non-Professional Services

An RFP is not required for service contracts valued below \$25,000. SDCL 5-18A-11. For these services, agencies are authorized to obtain a quote or quotes and contract directly with the vendor that best satisfies their needs. However, if the resulting service contract is valued at \$25,000 or more, agencies must issue either an invitation for bids according to the procedures outlined in SDCL 5-18A-5 or an RFP according to the procedures outlined in SDCL 5-18A-7. Agencies must advertise the invitation for bids or RFP in accordance with SDCL 5-18A-14. According to SDCL 5-18A-14:

The advertisement shall appear as a legal notice in the appointed legal newspaper. The advertisement shall be printed at least twice, with the first publication at least ten days before opening of bids or the deadline for the submission of proposals. The first publication shall be in each official newspaper of the purchasing agency, and the second publication may be in any legal newspaper of the state chosen by the purchasing agency. If the purchasing agency has no official newspaper, the first publication shall be made in a legal newspaper with general circulation in the jurisdiction of the purchasing agency to be selected by the purchasing agency. The advertisement shall state the time and place where the bids will be opened or the deadline for the submission of proposals. In each notice, the purchasing agency shall reserve the right to reject any or all bids or proposals.

Other procedures under SDCL 5-18A-7 for issuing an RFP for non-professional services include:

- The RFP shall state the relative importance of price and other factors, if any;
- The RFP may be submitted either manually or electronically in the manner authorized by the purchasing agency. For executive branch agencies, electronic submission of competitive sealed proposals should be accomplished through the electronic procurement system administered by BOA;
- The RFP shall be opened in a manner which avoids disclosure of its contents to competing offerors during negotiation. Additionally, a register that identifies the name and address of each offeror shall be maintained and open for public inspection. This register must also identify each offeror awarded a contract;
- The agency may conduct a discussion with any offeror who submitted a proposal to clarify the solicitation requirements. A revision may be allowed after a submission and prior to an award. Every offer shall be treated fairly and equally regarding the opportunity for discussion and revision;
- An award shall be made to the offeror whose proposal meets the solicitation requirements and is determined in writing to be the most advantageous to the purchasing agency taking into consideration price and the evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made;
- Written notice of the award of a contract to the successful offeror shall be promptly given to each offeror; and
- The purchasing agency may reject any and all proposals and readvertise for proposals if none of the proposals are satisfactory, or if the purchasing agency believes any agreement has been entered into by the offerors to prevent competition.

Professional Services

Any agency seeking professional services exceeding \$50,000 shall issue an RFP and shall publish any RFPs issued on the electronic procurement system maintained by BOA. The RFP shall include the procedures for soliciting and awarding the contract. SDCL 5-18D-17.

Professional services are defined in SDCL 5-18A-1 as “services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual.”

Specific evaluation criteria are required by SDCL 5-18D-18.

5-18D-18. Evaluation criteria to be stated in request for proposals. The request for proposals shall state the relative importance of evaluation criteria to be used in the ranking of prospective contractors. The agency shall include the following evaluation criteria in any request for proposals:

- (1) Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
- (2) Resources available to perform the work, including any specialized services, within the specified time limits for the project;
- (3) Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
- (4) Availability to the project locale;
- (5) Familiarity with the project locale;
- (6) Proposed project management techniques; and
- (7) Ability and proven history in handling special project constraints.

Negotiation of the project is covered under SDCL 5-18D-19. The agency and the highest ranked contractor will discuss and refine the scope of services for the project and negotiate the terms of the contract. Compensation paid shall be reasonable and fair to the agency. If the agency and contractor are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor. SDCL 5-18D-19.

According to SDCL 5-18D-20, each agency issuing an RFP for a professional service contract must maintain a register of proposals containing the names of any person whose qualifications were considered and the name of the person that was awarded the contract. Any professional service contract and the documentation that was the basis for the contract is public except for proprietary information which shall remain confidential. The qualifications and any other documentation of any person not issued a contract shall remain confidential. SDCL 5-18D-20.

Certain Procurements and Professional Services Exempt

Certain procurements are exempt from the statutory requirements of SDCL chapters 5-18A through 5-18D. These exemptions are outlined in SDCL 5-18A-22.

Additionally, certain professional service contracts are exempt from the RFP process provisions of SDCL 5-18D-17 to 5-18D-20 as outlined above. These exemptions are outlined in SDCL 5-18D-21. Contracts issued for the following are exempt:

- Services of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service. Determination that the contractor

selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required;

- Emergency services necessary to meet an urgent or unexpected requirement or if health and public safety or the conservation of public resources is at risk;
- Services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;
- Services for professional legal services;
- Services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;
- Services involving state or federal financial assistance passed through by a state agency to a political subdivision;
- Medical services and home and community-based services;
- Services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public; or
- Services to be provided by entertainers for the state fair and other events.

For reference, a decision chart used by the Department of Social Services to determine if an RFP is necessary is attached in the appendix. A template that can be used to indicate that a contract is exempt from RFP process is also included in the appendix.

Information Technology Services

If an agency is developing an RFP or contract for information technology (IT) services or an RFP or contract that includes IT services, the agency should contact the Bureau of Information & Telecommunications (BIT). BIT staff are available to assist in developing detailed specifications for proposals, reviewing RFP and contract drafts and providing customer service on vendor related questions and answers. Depending on the IT service or the IT components of a requested service, BIT may be required provisions and attachments that necessitate vendor responses. RFPs processed through this review process are examined for technical issues and can be re-submitted for subsequent reviews as needed. The Technology Review Process is used only for information and technology related projects approved by agency management. Projects not approved must go through the appropriate agency approval process.

Best Practices Recommendations

A major focus of the RFP process workgroup was developing a list of best practices to guide agencies. The group provided several recommendations which have been categorized below. Examples and reference documents are attached as part of the appendix at the end of this report.

Drafting

BOA provides templates for agencies to use when drafting a proposal. Copies of these templates with the suggested updates from the workgroup are located in the appendix of this report. These templates are also posted on the BOA website at:

[http://boa.sd.gov/divisions/procurement/agencies/procurement_information_state_agencies.aspx#Request for Proposal/Service Contract Process](http://boa.sd.gov/divisions/procurement/agencies/procurement_information_state_agencies.aspx#Request%20for%20Proposal/Service%20Contract%20Process). For the most recent version of the template, always check the BOA the website.

The following guidance and recommendations are provided to serve as a useful resource for drafting a proposal.

Cover Page (Required)

This page ensures that the agency receives necessary contact and tax information for each proposal. An agency can edit or remove any of the categories in this section. However, the category requiring primary contact information should be retained.

Section 1.1 Purpose of Request for Proposal (Required)

This section should provide a brief description of the reason the agency is issuing the RFP. This should be confined to one or two short paragraphs as the purpose will be expanded on in SECTION 3.0 (SCOPE OF WORK).

Section 1.2 Issuing Office and RFP Reference Number (Required)

This section should include the issuing office and the RFP reference number. The reference number is assigned by the e-procurement system. Agencies can also choose their own reference numbers. Several agencies currently use their own system to number their RFPs. An additional reference number is still assigned by the e-procurement system and both numbers are used. If an agency chooses to assign its own reference numbers, each number must be unique.

Section 1.3 Letter of Intent (Optional)

Letters of intent are not required. Requiring offerors to submit letters of intent can create problems. For example, if an interested offeror misses the deadline for submitting the letter, the agency is faced with the difficult choice of excluding the offeror or amending the RFP to extend the deadline. However, letters of intent can serve a purpose depending on the agency's process. For certain RFPs, an agency might want to know who is planning to submit a proposal. Under that circumstance, allowing – but not requiring – interested offerors to submit letters of intent is often the agency's best option.

Section 1.4 Schedule of Activities (Required)

This section may be modified to include only the categories applicable to the RFP. Establishing clear deadlines will help facilitate the process. The schedule can be modified during the process if necessary.

Section 1.5 Site Visits (Optional)

This section should describe how site visits will be handled, if applicable. Agencies should restate the deadline for completion of any site visits outlined in SECTION 1.4 and include contact information for setting up any site visits.

Section 1.6 Submitting Your Proposal (Required)

This section may be modified. Noteworthy items:

- The number of copies requested should be consistent with SECTION 5.1.
- Cost proposals are not required to be in a separate envelope, but requiring this can be a good idea. For example, some agencies want to ensure that a proposal meets the RFP requirements before considering the cost proposal.

TEMPLATE NOTE: THE WORKGROUP RECOMMENDS REMOVING ALL UNNECESSARY ADDRESS SPECIFICATIONS IN THIS SECTION. THIS CHANGE IS INCORPORATED IN THE ATTACHED TEMPLATE.

Section 1.7 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions (Required)

This section should not be modified.

Section 1.8 Non-Discrimination Statement (Required)

This section should not be modified.

Section 1.9 Modification or Withdrawal of Proposals (Required)

This section may be modified to reflect the agency's process. Note that modifications or withdrawals should be submitted in the same manner as the proposal was submitted.

Section 1.10 Offeror Inquiries (Optional)

This section can be modified to reflect the agency's process. Some agencies do not accept or respond to inquiries on certain RFPs.

Section 1.11 Proprietary Information (Required)

This section should not be modified.

Section 1.12 Length of Contract (Optional)

This section can include information relating to the length of the proposed contract, including whether or not there will be an opportunity for contract extensions.

Section 1.13 Governing Law (Required)

This section should not be modified.

TEMPLATE NOTE: THE WORKGROUP RECOMMENDS UPDATING THE LANGUAGE IN THIS SECTION REGARDING VENUE TO READ "CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT, HUGHES COUNTY, SOUTH DAKOTA." THIS CHANGE IS INCORPORATED IN THE ATTACHED TEMPLATE.

Section 1.14 Discussions with Offerors (Optional)

This section can be modified to reflect the agency's process.

Section 2.0 Standard Contract Terms and Conditions (Necessary)

This section can be modified to reflect the agency's terms and conditions. An agency may also refer to a terms and conditions attachment rather than including the terms and conditions in this section.

These Standard Terms and Conditions are issued to furnish guidance to agencies in the preparation of Professional Service Contracts. Agencies should thoroughly review the terms and tailor them to accommodate their specific requirements. In addition draft RFPs should be reviewed by each agency's legal counsel prior to submitting the draft RFP for posting.

Section 3.0 Scope of Work (Required)

This section should expand on the purpose of the RFP as outlined in SECTION 1.1. Agencies should provide specific requirements related to the work to be performed while still allowing offerors the opportunity to explain how they can best perform the work.

Agencies can also use this section to request any additional information that the offeror considers pertinent to the project.

Section 4.0 Proposal Requirements and Company Qualifications (Required)

SECTION 4.1 must be retained, but all other content can be modified. This section should list all requirements that need to be met by the contract that are not specifically related to the actual work to be performed. This would include additional information required to be submitted with the proposal.

TEMPLATE NOTE: THE WORKGROUP RECOMMENDS ADDING THE FOLLOWING ITEMS TO THIS SECTION FOR PROFESSIONAL SERVICE RFPs TO ENSURE THAT SUBMITTED PROPOSALS INCLUDE THIS INFORMATION FOR EVALUATION:

- SPECIALIZED EXPERTISE, CAPABILITIES, AND TECHNICAL COMPETENCE AS DEMONSTRATED BY THE PROPOSED APPROACH AND METHODOLOGY TO MEET THE PROJECT REQUIREMENTS;
- RESOURCES AVAILABLE TO PERFORM THE WORK, INCLUDING ANY SPECIALIZED SERVICES, WITHIN THE SPECIFIED TIME LIMITS FOR THE PROJECT;
- RECORD OF PAST PERFORMANCE, INCLUDING PRICE AND COST DATA FROM PREVIOUS PROJECTS, QUALITY OF WORK, ABILITY TO MEET SCHEDULES, COST CONTROL, AND CONTRACT ADMINISTRATION;
- AVAILABILITY TO THE PROJECT LOCALE;
- FAMILIARITY WITH THE PROJECT LOCALE; AND
- ABILITY AND PROVEN HISTORY IN HANDLING SPECIAL PROJECT CONSTRAINTS.

THIS CHANGE IS INCORPORATED IN THE ATTACHED TEMPLATE.

Section 5.0 Proposal Response Format (Required)

This section can be modified. Ensure the number of copies requested in SECTION 5.1 is consistent with SECTION 1.6.

In SECTION 5.2.3.2, it can be helpful to specify that point-by-point responses are only required for SECTION 3.0 and SECTION 4.0 so that offerors do not unnecessarily craft responses to the RFP instructions. An agency can also indicate that combined responses to certain sections are allowed when appropriate.

In SECTION 5.2.4, ensure that any internal reference to “Cost Proposal” is correct if sections have been added or removed.

Section 6.0 Proposal Evaluation and Award Process – *Professional* (Required)

The evaluation criteria in SECTION 6.1 are required by state law and should not be modified. Additional evaluation criteria that will be used to rank the proposals, including cost, can be included at the agency’s discretion. Including the specific weighting of the criteria or indicating that the criteria are listed in order of importance is required.

Section 6.0 Proposal Evaluation and Award Process – *Non-Professional* (Required)

This section can be modified and should specify the evaluation criteria that will be used to rank the proposals. Providing specific criteria and including specific weighting of the criteria is recommended. There are no specific evaluation criteria required by state law for non-professional services.

Section 7.0 Cost Proposal (Optional)

This section should describe the agency's expectations for the cost proposal. If possible, provide a template that offerors can use to generate their cost proposals.

Posting and Circulating

According to state law, all professional services RFPs exceeding \$50,000 must publish the RFP on the electronic procurement system maintained and managed by BOA. An RFP for non-professional services must be advertised according to SDCL 5-18A-14 as outlined on page 4. Some agencies also directly contact vendors that have a known interest in the RFP. Some agencies also maintain their own webpages containing the agency's current RFPs and all related information.

Responding to Inquiries

Any responses to inquiries by an interested party should be made available to all interested parties. Aggregating all inquiries and posting the responses publically is the most efficient and fair method for responding to inquiries. When posting the inquiries publically, it is important to redact any identifying information from each inquiry by removing any distinguishing details or information to avoid identifying the inquirer. Adding an addendum to the RFP that includes valuable and relevant inquiries/answers can provide useful information to offerors that will result in soliciting the best proposal.

Evaluating Proposals

Drafting the evaluation template in conjunction with the RFP is recommended. This will ensure that all criteria used for evaluation will be included in the RFP. Establishing an evaluation team before drafting the RFP is also suggested. The team should include more than one evaluator but typically should not include more than seven evaluators. Some agencies have their evaluation team meet as a group to compile one master score sheet while other agencies compile and average scores from each evaluator.

For reference, an evaluation example used by the Department of Social Services is attached in the appendix.

Notifying Unsuccessful Offerors

In most situations, sending notice of an agency's intent to award a contract to both successful and unsuccessful offerors is recommended. This notice typically identifies all offerors who submitted proposals and the offeror who will be awarded the contract. For RFPs for non-professional services, providing each offeror with written notice that the contract was awarded is required under SDCL 5-18A-7. Debriefing can also be a useful method for appeasing unsuccessful offerors. Offerors want to know their proposals were reviewed and evaluated

fairly and that their time drafting and submitting a proposal was not wasted. A debriefing can be general, but providing specific information on why a proposal was not accepted can often be more effective. Debriefing can be done by letter or phone call.

Proprietary Information

South Dakota law does not define proprietary information. However, SDCL 1-27-1.6 covers eight types of financial, commercial, and proprietary information that is exempt from disclosure. This can serve as guidance for agencies in determining whether information is proprietary. Additionally, agencies should clearly state in the RFP any specific information in the proposal that will not be considered proprietary. SECTION 1.11 of the RFP template also directs offerors to clearly identify proprietary information.

Agency Contact List

RFP Contact List by Agency as of October 1, 2014

Agency	Contact
<i>Bureau of Administration (BOA)</i>	Jeff Holden, Steve Berg, Kevin Fridley
<i>Bureau of Finance and Management (BFM)</i>	Colin Keeler
<i>Bureau of Information and Telecommunications (BIT)</i>	Debbie Lancaster, Kari Stulken
<i>Bureau of Human Resources (BHR)</i>	Tom Steckel, Chris Houlette, Debra Owen
<i>Department of Corrections (DOC)</i>	Scott Bollinger
<i>Department of Education (DOE)</i>	Brett Arenz
<i>Department of Environment and Natural Resources (DENR)</i>	Joe Nadenicek, Rob Green
<i>Governor's Office of Economic Development (GOED)</i>	Marty Davis
<i>Department of Health (DOH)</i>	Justin Williams
<i>Department of Human Services (DHS)</i>	Nick Cotton
<i>Department of Labor and Regulation (DLR)</i>	Amber Mulder
<i>Department of the Military (DOM)</i>	Connie Hohn
<i>Department of Public Safety (DPS)</i>	Angie Lemieux
<i>Department of Revenue (DOR)</i>	David Wiest, Joan Serfling
<i>Department of Social Services (DSS)</i>	Mark Close
<i>Department of Transportation (DOT)</i>	Bill Nevin
<i>Department of Veterans Affairs (DVA)</i>	Connie Hohn

Appendix

NON-PROFESSIONAL SERVICES TEMPLATE

STATE OF SOUTH DAKOTA
OFFICE OF PROCUREMENT MANAGEMENT
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3182

PROPOSALS ARE DUE NO LATER THAN _____

RFP #:

BUYER:

EMAIL:

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

FEDERAL TAX ID#: _____ E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The _____ is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, _____. The reference number for the transaction is RFP # _____. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.3 LETTER OF INTENT

All interested offerors must submit a **Letter of Intent** to respond to this RFP.

The letter of intent must be received in the _____ by no later than _____. If submitted by mail the envelope should be addressed to:

Address _____

Be sure to reference the RFP number in your letter.

The Letter of Intent may be submitted to _____ via email at _____. Please place the following in the subject line of your email: "**Letter of Intent for RFP**".

You may also fax your letter of intent to the attention of _____ at _____.

1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

RFP Publication
Letter of Intent to Respond Due
Deadline for Completion of Site Visits
Deadline for Submission of Written Inquiries
Responses to Offeror Questions
Proposal Submission
Oral Presentations/discussions (if required)
Proposal Revisions (if required)
Anticipated Award Decision/Contract Negotiation

1.5 SITE VISITS

1.6 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received in the _____ by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original and _____ identical copies of the proposal shall be submitted.

The cost proposal must be in a separate sealed envelope and labeled “Cost Proposal”.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title. The words “Sealed Proposal Enclosed” must be prominently denoted on the outside of the shipping container. **Proposals must be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL #
PROPOSAL DUE
BUYER**

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the

use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.8 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.9 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.10 OFFEROR INQUIRIES

Offerors may make written or email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Email inquiries must be sent to _____ at _____ with the subject line "RFP # _____". Inquiries may also be faxed to _____. If inquiries are submitted by mail the envelope should be addressed to: _____. Be sure to reference the RFP number in your letter.

The _____ prefers to respond to offeror's inquiries (if required) via e-mail. If a offeror does not indicate an email address, the State's response will be sent via fax. If no fax number is provided, the State will mail the response to the offeror. All offerors will be informed of any inquiries and the State's response. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.11 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

1.12 LENGTH OF CONTRACT

1.13 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.. The laws of South Dakota shall govern this transaction.

1.14 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1 The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein.
- 2.2 The Contractor's services under this Agreement shall commence on _____ and end on _____, unless sooner terminated pursuant to the terms hereof.
- 2.3 The Contractor will not use State equipment, supplies or facilities. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.4 The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$_____. The State will not pay Contractor's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher. Payment will be made consistent with SDCL ch. 5-26.
- 2.5 The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
- 2.6 The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
 - A. Commercial General Liability Insurance:

The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
 - B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.
 - C. Business Automobile Liability Insurance:

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
 - D. Worker's Compensation Insurance:

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

- 2.7** While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- 2.8** Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.
- Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.
- 2.9** This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- 2.10** This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
- 2.11** This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
- 2.12** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- 2.13** The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
- 2.14** The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts

requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

- 2.15** Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Contractor without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.
- 2.16** The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.
- 2.17** Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to _____ on behalf of the State, and by _____, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.18** In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- 2.19** All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

3.0 SCOPE OF WORK

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

- 4.1 The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- 4.2 **Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.
- 4.3 The offeror may be required to submit a copy of their most recent audited financial statements upon the State's request.
- 4.4 Provide the following information related to at least three previous and current service/contracts, performed by the offeror's organization, which are similar to the requirements of this RFP. Provide this information for any service/contract that has been terminated, expired or not renewed in the past three years.
- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
 - b. Dates of the service/contract; and
 - c. A brief, written description of the specific prior services performed and requirements thereof.

5.0 PROPOSAL RESPONSE FORMAT

5.1 An original and _____ copies shall be submitted.

5.1.1 In addition, the offeror should provide one (1) copy of their entire proposal, including all attachments, in Microsoft Word or PDF electronic format. Offerors may not send the electronically formatted copy of their proposal via email.

5.1.2 The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.

5.2 All proposals must be organized and tabbed with labels for the following headings:

5.2.1 **RFP Form.** The State's Request for Proposal form completed and signed.

5.2.2 **Executive Summary.** The one or two page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.

5.2.3 **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:

5.2.3.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.

5.2.3.2 A specific point-by-point response, in the order listed, to each requirement in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.

5.2.3.3 A clear description of any options or alternatives proposed.

5.2.4 **Cost Proposal.** Cost will be evaluated independently from the technical proposal. Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

The cost proposal must be submitted in a separate sealed envelope labeled "Cost Proposal" as outlined in section 1.7 of this RFP.

See section 7.0 for more information related to the cost proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

- 6.1** After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:
- a. Cost
 - b. Experience and Reliability
 - c. Expertise of Personnel
 - d. Method of Performance
- 6.2** Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3** The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4** The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
- 6.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
 - 6.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

7.0 COST PROPOSAL

PROFESSIONAL SERVICES TEMPLATE

STATE OF SOUTH DAKOTA
OFFICE OF PROCUREMENT MANAGEMENT
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3182

PROPOSALS ARE DUE NO LATER THAN

RFP #:

BUYER:

EMAIL:

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

FEDERAL TAX ID#: _____ E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The _____ is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, _____. The reference number for the transaction is RFP # _____. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.3 LETTER OF INTENT

All interested offerors must submit a **Letter of Intent** to respond to this RFP.

The letter of intent must be received in the _____ by no later than _____. If submitted by mail the envelope should be addressed to:

Address _____

Be sure to reference the RFP number in your letter.

The Letter of Intent may be submitted to _____ via email at _____. Please place the following in the subject line of your email: "**Letter of Intent for RFP**".

You may also fax your letter of intent to the attention of _____ at _____.

1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

RFP Publication
Letter of Intent to Respond Due
Deadline for Completion of Site Visits
Deadline for Submission of Written Inquiries
Responses to Offeror Questions
Proposal Submission
Oral Presentations/discussions (if required)
Proposal Revisions (if required)
Anticipated Award Decision/Contract Negotiation

1.5 SITE VISITS

1.6 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received in the _____ by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original and _____ identical copies of the proposal shall be submitted.

The cost proposal must be in a separate sealed envelope and labeled “Cost Proposal”.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title. The words “Sealed Proposal Enclosed” must be prominently denoted on the outside of the shipping container. **Proposals must be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL #
PROPOSAL DUE
BUYER**

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the

use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.8 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.9 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.10 OFFEROR INQUIRIES

Offerors may make written or email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Email inquiries must be sent to _____ at _____ with the subject line "RFP # _____". Inquiries may also be faxed to _____. If inquiries are submitted by mail the envelope should be addressed to: _____. Be sure to reference the RFP number in your letter.

The _____ prefers to respond to offeror's inquiries (if required) via e-mail. If a offeror does not indicate an email address, the State's response will be sent via fax. If no fax number is provided, the State will mail the response to the offeror. All offerors will be informed of any inquiries and the State's response. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.11 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

1.12 LENGTH OF CONTRACT

1.13 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.. The laws of South Dakota shall govern this transaction.

1.14 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by a offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein.
- 2.2** The Contractor's services under this Agreement shall commence on _____ and end on _____, unless sooner terminated pursuant to the terms hereof.
- 2.3** The Contractor will not use State equipment, supplies or facilities. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.4** The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed \$_____. The State will not pay Contractor's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted with a signed state voucher. Payment will be made consistent with SDCL ch. 5-26.
- 2.5** The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
- 2.6** The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
 - A. Commercial General Liability Insurance:**

The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
 - B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:**

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.
 - C. Business Automobile Liability Insurance:**

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
 - D. Worker's Compensation Insurance:**

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

2.7 While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

2.8 Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

2.9 This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.

2.10 This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

2.11 This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

2.12 This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

2.13 The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

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- 2.17** Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to _____ on behalf of the State, and by _____, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.18** In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- 2.19** All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

3.0 SCOPE OF WORK

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

- 4.1 The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
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- 4.3 The offeror may be required to submit a copy of their most recent audited financial statements upon the State's request.
- 4.4 Provide the following information:
- 4.4.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
 - 4.4.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
 - 4.4.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
 - 4.4.4 Availability to the project locale;
 - 4.4.5 Familiarity with the project locale;
 - 4.4.6 Proposed project management techniques; and
 - 4.4.7 Ability and proven history in handling special project constraints.
- 4.5 Provide the following information related to at least three previous and current service/contracts, performed by the offeror's organization, which are similar to the requirements of this RFP. Provide this information for any service/contract that has been terminated, expired or not renewed in the past three years.
- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
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 - c. A brief, written description of the specific prior services performed and requirements thereof.

5.0 PROPOSAL RESPONSE FORMAT

5.1 An original and _____ copies shall be submitted.

5.1.1 In addition, the offeror should provide one (1) copy of their entire proposal, including all attachments, in Microsoft Word or PDF electronic format. Offerors may not send the electronically formatted copy of their proposal via email.

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See section 7.0 for more information related to the cost proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

- 6.1** After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:
- 6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
 - 6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
 - 6.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
 - 6.1.4 Availability to the project locale;
 - 6.1.5 Familiarity with the project locale;
 - 6.1.6 Proposed project management techniques; and
 - 6.1.7 Ability and proven history in handling special project constraints.
- 6.2** Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3** The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4** The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
- 6.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
 - 6.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

7.0 COST PROPOSAL

Respondent:

Evaluator Name:

Date:

Evaluator Signature:

Circle one score for each item. Refer to the RFP for details pertaining to each section. Comments may be written that lend insight on why points were awarded or failed to be awarded for a particular criteria. To score the elements, multiply the total possible points by the percentage applied to selected score. Enter that total in the Total Score column. Add the totals for the Total Score in each section. Add the Total Scores for the Final Score.

The descriptions of the ratings (0 through 5) are listed below:

0 = Unacceptable	<ul style="list-style-type: none"> • Response does not address any of the issues or there is no response. • Response is usually confusing, excessive, or unclear. • Response does not address the criteria. • Response does not illustrate skill, experience, knowledge, or ability. • Response would not result in the successful completion of the requirement even with State involvement and constant guidance.
1 = Poor	<ul style="list-style-type: none"> • Response does not address most of the issues completely. • Response is not supported and convincing. • Response does not address the criteria in a complete manner. • Response illustrates very little skill, experience, knowledge, or ability. • Response would require extensive State involvement and constant guidance to achieve successful completion.
2 = Marginal	<ul style="list-style-type: none"> • Response addresses most of the issues completely. • Response is not always supported and convincing. • Response addresses most criteria. • Response illustrates some skill, experience, knowledge, and ability but not in all areas. • Response would require significant State involvement and frequent guidance to achieve successful completion.
3 = Acceptable	<ul style="list-style-type: none"> • Response addresses the issues completely and proposes a sound approach that meets all of the requirements. • Response is supported and convincing. • Response addresses all criteria in a complete manner. • Response illustrates skill, experience, knowledge, and ability. • Response could require occasional State involvement and/or guidance beyond normal contract administration to achieve successful completion on time.
4 = Very Good	<ul style="list-style-type: none"> • Response addresses all issues completely and proposes a sound approach that exceeds some requirements. • Response is usually articulate, clear, and concise and well supported and convincing. • Response addresses all criteria in a complete manner and exceeds some requirements in tangible, clearly advantageous ways. • Response illustrates a high level of skill, experience, knowledge, and ability. • Response is not likely to exceed normal State contract administration or require any guidance.
5 = Superior	<ul style="list-style-type: none"> • Response addresses all issues completely and exceeds most mandatory requirements in tangible, clearly advantageous ways. • The response is always articulate, clear, and concise and well supported and convincing. • The response addresses all criteria in a complete manner and exceeds most requirements in tangible clearly advantageous ways. • The response illustrates extensive skill, experience, knowledge, and ability. • Response only requires normal contract administration.

Section 1.	Item	Total Score	Assigned Score						Possible	Comments
			0	1	2	3	4	5	Points	
6.1.1: <i>Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements</i>			0%	20%	40%	60%	80%	100%		
(A) - 3.1	Does the respondent outline the proposed service area? Y/N 5/0		0					5	10	
(B) - 3.1 and 3.2	Rate the respondent's description of the barriers and/or challenges to the proposed rural service area, and any description of how they will meet the challenge.		0	1	2	3	4	5	50	
(C) - 3.3	Rate the respondent's description of how they propose to conduct initial assessments and on-going treatment.		0	1	2	3	4	5	45	
(D) - 3.4	Rate the description of how the proposed services are similar or different to services the respondent currently provides.		0	1	2	3	4	5	35	
(E) - 3.5	Rate the proposal's description regarding implementation challenges and how they might use technology to address these challenges.		0	1	2	3	4	5	50	
(F) - 3.6	Rate the description of the level of requested State assistance.		0	1	2	3	4	5	35	
(G) - 3.7	Did the respondent specify in writing their agreement to work collaboratively with DSS regarding programming content, and to submit info for billing purposes? Y/N 5/0		0					5	10	

(H) - 4.4	Rate the provided current accreditation certificates. If offeror is not state accredited, rate their projected timeline for obtaining accreditation.		0	1	2	3	4	5	35		
(I) - 4.5	Rate the offeror's number of years they have operated an alcohol and drug prevention and treatment service in their local community. Each year corresponds directly to the score. For example, 2 years experience is equal to a score of 2, and so on. In excess of 5 years experience is still scored a 5.		0	1	2	3	4	5	35		
(J) - 3.0, 4.4, 4.5, Narrative, and Executive Summary: subjective summarization	Rate the respondent's overall technical requirements: their proposed rural service area, their perceived understanding of the unique challenges, their plan to address the challenges including their utilization of technology, their experience and accreditation, and their implementation plan.		0	1	2	3	4	5	45		
									350		
Section 2.	Item	Total Score	Assigned Score							Comments	
			0	1	2	3	4				5
6.1.2 <i>Resources available to perform the work, including any specialized services, within the specified time limits for the project</i>											
(A) - 4.2	Does the respondent have sufficient staff allocated to the program? If not, is the indicated hiring time frame acceptable?		0	1	2	3	4	5	50		
(B) - 4.3	Are the respondent's staff credentials acceptable?		0	1	2	3	4	5	50		
(C) - 4.6	Rate the respondent's organizational structure.		0	1	2	3	4	5	50		
(D) - 4.12	Rate the respondent's description of their available resources to perform the work, including any specialized services.		0	1	2	3	4	5	50		
									200		
Section 3.	Item	Total Score	Assigned Score							Comments	
			0	1	2	3	4				5
6.1.3: <i>Proposed project management techniques</i>											
(A) - 4.11, Executive Summary, Narrative	Rate the respondent's description of their proposed project management techniques.		0	1	2	3	4	5	125		
									125		
Section 4.	Item	Total Score	Assigned Score							Comments	
			0	1	2	3	4				5
6.1.4: <i>Availability to the project locale</i>											
(A) - 4.9, Executive Summary, Narrative	Rate the information submitted that demonstrates the proposer's availability to the project locale.		0	1	2	3	4	5	70		
									70		
Section 5.	Item	Total Score	Assigned Score							Comments	
			0	1	2	3	4				5
6.1.5: <i>Familiarity with the project locale</i>											
(A) - 4.9	Rate the information submitted that demonstrates the proposer's familiarity with the project locale.		0	1	2	3	4	5	20		
(B) - 3.1	Rate the description of the proposed area including the respondent's understanding of the challenges and barriers for the area.		0	1	2	3	4	5	25		
(C) - Executive Summary, Narrative	Did the respondent demonstrate a full understanding of the project as it pertains to their proposed service area(s)?		0	1	2	3	4	5	25		
									70		
Section 6.	Item	Total Score	Assigned Score							Comments	
			0	1	2	3	4				5
6.1.6: <i>Ability and proven history in handling</i>											

<i>special project constraints</i>													
(A) - 4.10	Rate the respondent's description of their ability and history in handling special project constraints.		0	1	2	3	4	5	20				
(B) - 3.1	Rate the respondent's description of the recognized barriers and challenges for this project.		0	1	2	3	4	5	20				
(C) - 3.2	Rate the respondent's description of how they propose to address the barriers and challenges for the area they propose.		0	1	2	3	4	5	30				
									70				
Section 7.	Item	Total Score	Assigned Score					POSS. POINTS	Percentage Of Possible Total Points	Comments			
			0	1	2	3	4				5		
6.1.7: <i>Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedule, costs control, and contract administration</i>	Special Note: Either score (A) OR score (B) and (C)												
(A)	If the respondent is currently contracted by the Department of Social Services, rate their current performance considering price, quality of work, ability to meet schedules, contain costs, and contract administration.		0	1	2	3	4	5	65				
(B) - 4.8	If the respondent is not currently contracted by the Department of Social Services, rate their performance including price and cost data, quality of work, ability to meet schedules, contain costs, and contract administration for their examples of provided service / contract example of similar nature to this RFP. Consider and aggregate the responses for <u>all</u> examples provided and summarize with one score.		0	1	2	3	4	5	30				
(C) - 4.8	Score the reference checks <i>if</i> scored (B) above due to no current contract with the Department of Social Services.		0	1	2	3	4	5	35				
									65				
Section 8.	Item	Total Score	Assigned Score					POSS. POINTS	Percentage Of Possible Total Points	Comments			
			0	1	2	3	4				5		
6.1.8: <i>Cost proposal</i>													
(A) - Admin Costs, Attach. #1, budget	Combine operating and travel costs from Attachment #1, budget sheet, and use comparative cost formula to score.								20				
(B) - Total Cost	Use the comparative cost formula to score total cost proposal submitted by vendor.								30				
EVALUATION SECTION		TOTAL SCORE							POSS. POINTS	Percentage Of Possible Total Points			
6.1.1: <i>Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements</i>		Total Score:							350	35.00%			
6.1.4: <i>Resources available to perform the work, including any specialized services, within the specified time limits for the project</i>		Total Score:							200	20.00%			
6.1.2 <i>Proposed project management techniques</i>		Total Score:							125	12.50%			
6.1.7: <i>Availability to project locale</i>		Total Score:							70	7.00%			

6.1.8: <i>Familiarity with the project locale</i>		Total Score:							70		7.00%
6.1.6: <i>Ability and proven history in handling special project constraints</i>		Total Score:							70		7.00%
6.1.3: <i>Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration</i>		Total Score:							65		6.50%
6.1.5: <i>Cost proposal</i>		Total Score:							50		5.00%
		FINAL SCORE:							Total Poss. Points/ 1000		

Cost Proposal Formula:

1. Lowest cost proposal receives maximum possible points.
2. Divide the lowest proposal into the next lowest proposal to arrive at dividend. Round to two decimals.
3. Multiply the dividend by the possible points to arrive at awarded points.
4. Continue process of dividing the lowest proposal into the remaining cost proposals to be rated and multiplying the dividend by the possible points to award points.

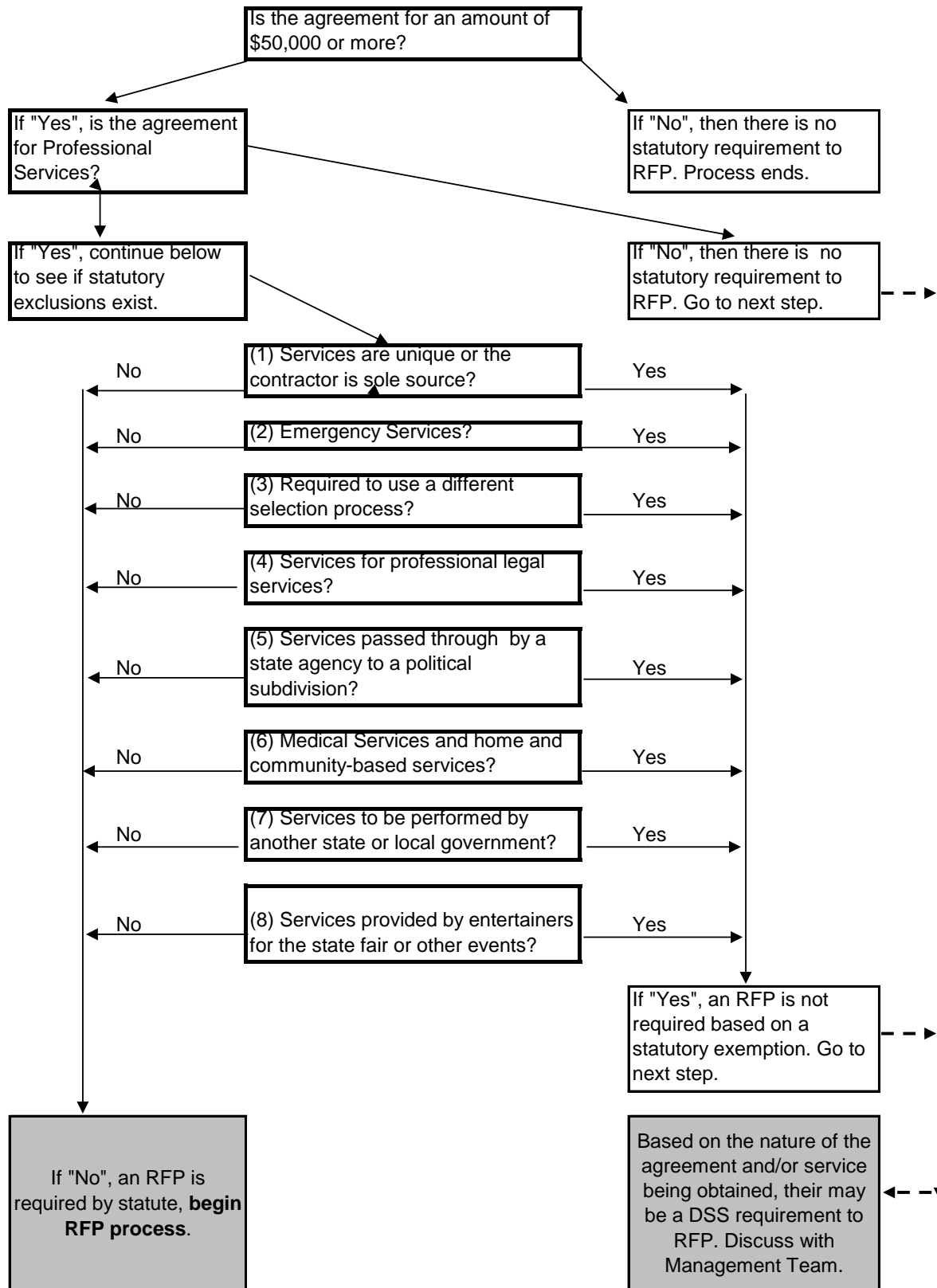
(Price of Lowest Cost Proposal/Price of Proposal Being Rated) x Total Points available for Cost = Awarded Points

Ex. Cost proposal "A" is \$100; cost proposal "B" is \$150, and cost proposal "C" is \$200. Total possible points are 100.

1. Cost proposal "A" receives 100 points because it is the lowest proposal.
2. Cost proposal "B" receives 67 points (100/150 = .666666 rounded to .67 x 100 possible points)
3. Cost proposal "C" receives 50 points (100/200 = .50 x 100 possible points)

DSS Request for Proposal Decision Chart for Professional Services

Use the decision chart below to determine the basis for determining whether an RFP is necessary or optional.



Request for Exemption from RFP Process

Requesting Party's Name: _____ Date: _____

Division: _____ Phone Number: _____

Suggested Vendor: _____

Item/Service To Be Purchased: _____

(Check All That Apply)

_____ Services of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required;

_____ Emergency services necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk;

_____ Services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;

_____ Services for professional legal services and services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;

_____ Services involving state or federal financial assistance passed through by a state agency to a political subdivision;

_____ Medical services and home and community-based services;

_____ Services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public;

_____ Services to be provided by entertainers for the state fair and other events; or

_____ Services do not exceed \$50,000.

Division Director

Requesting Party

Department Secretary

Director of Finance and Management