

REQUEST FOR PROPOSALS

Minnesota Departments of Health and Human Services

Project Overview

The Minnesota Departments of Health (MDH) and Human Services (DHS) are soliciting services to conduct an assessment of readiness of the primary health care delivery system in Minnesota to implement Health Care Home (HCH) for targeted (i.e. children, adult and elderly) populations with chronic or complex conditions in the state. The assessment must include sufficient input from a broad array of key stakeholders to provide confidence in the accuracy of the assessment at the regional and statewide levels. Establishment of a statewide Health Care Home system is an integral component of the Health Care Reform legislation passed during the 2008 legislative session (M.S. 256B.0751).

Goal

The goal of this activity is to have a clear understanding of the capacity of primary health care providers throughout the state to implement Health Care Home, consumer understanding of and readiness for the implementation of health care home and to suggest recommendations that will guide capacity building efforts in establishing a statewide Health Care Home system.

Scope of Work

Task 1: Conduct an assessment of readiness of the primary care delivery system to implement HCH for targeted populations. The assessment should also include consumer understanding and readiness in using HCH. Through a number of geographically representative forums/focus groups of key stakeholders (primary care clinicians, clinic administrators, patients, families, etc.) and other processes that may be proposed by the contractor, the assessment should be conducted in such a way that: 1) achieves active participation by stakeholders; 2) includes basic awareness-building about HCHs for providers and consumers alike that includes information about the health care reform legislation and the goals for the HCH component of the legislation; 3) uses a tool(s) to demonstrate what a HCH looks like from the provider and patient perspective; and 4) provides the opportunity to do self-assessments of readiness to implement HCH. The assessment must provide both regional and statewide information.

Criteria to determine the capacity to provide coordinated patient and family-centered care should include but are not limited to: 1) presence of practice structures to manage patients with chronic and complex illness including care coordination resources, electronic health and medical records; 2) internal quality improvement capacity [process evaluation structures, practice self-assessments, patient/consumer satisfaction surveys, etc.]; 3) readiness to establish a partnership with patients for optimal care management; 4) human resources; and 5) knowledge of and contact with community resources. When available this assessment should use existing validated tools and utilize human resource data available in MDH, the MN Department of Employment

and Economic Data, licensing boards, etc. Assessment should include qualitative and quantitative assessment of primary care delivery system readiness for change.

The Contractor will conduct the assessment in consultation with and utilize technical assistance from MDH/DHS staff in organizing and managing the process.

A document detailing the process used in conducting the assessment, as well as the findings from the forums and other such data gathering processes used that reflect the range of "readiness" across the state, must be submitted. The document is defined as (10) printed copies and an electronic file.

Task 2: Provide written recommended actions to build capacity for creation of HCH. This should include a prioritized program of activities that takes into account the needs of patients of diverse backgrounds, ages, locations, etc., as well as systems-level recommendations. Verbal reports/presentations to the HCH Advisory Committee, Commissioners of Health and Human Services and others will be provided as designated.

The Departments of Health and Human Services will closely partner with and guide the Contractor on the scope of this work to ensure synergy with the broader Health Care Reform initiative activities. The Contractor must coordinate activities with the Department via a scheduled weekly conference call or meeting.

The contract will begin on the date stated on the contract or upon full execution of the contract, whichever is later, and will be completed by May 30, 2009.

Responders are encouraged to propose additional tasks or activities if they will substantially improve the results of the project. These items should be separated from the required items on the cost proposal.

This request for proposal does not obligate the state to award a contract or complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Questions

Prospective responders who have any questions regarding this request for proposals may submit questions in writing or via e-mail to:

Maggie Diebel
Department of Health
P.O. Box 64882, St. Paul, MN 55164-0882
maggie.diebel@state.mn.us
651-201-3594

Other personnel are not authorized to answer questions regarding this request for proposals. All questions must be received by November 1, 2008.

Proposal Content

Cover Letter (Two Page Limit) The cover letter should include the following:

- Responder's mailing and facility address, facsimile number, telephone number, and web site address (if applicable).
- A brief description of Responder's overall capabilities, history and overall organizational structure.
- Name, title, address, telephone number, and e-mail address of the person designated to answer questions about the Response.
- A detailed explanation of the way in which the Responder would be available on a day-to-day basis during the period of the Contract to organize activities, provide specific billing and invoicing information and to discuss, inform and interact with the Minnesota Department of Health and the Minnesota Department of Human Services.
- A statement of acceptance of the proposed Contract Conditions. Terms and conditions stated in this Request for Proposals and the Response will become part of the Contract if the Responder is selected. Any suggestions for alternative language shall be presented in the Response.
- The State is under no obligation to accept wording changes submitted by the Responder. The state in its sole discretion shall render decisions in matters of interpretation on all terms and conditions.

Response Narrative (Ten Page Limit) The Response must include the following (address each bullet listed below). Include experience for any Subcontractors that the Responder will be using. Clearly summarize which tasks will be performed by a Subcontractor or by the Responder's current personnel:

- A summary of overall qualifications/capabilities of the Responder. Include resumes of staff who will be assigned to the contract and a matrix table listing staff, classification, and years of services with the Responder including summary of educational experience, work experience and licenses/certifications held for each individual who will be working on the contract and the location of each of these individuals, as well as what contract duties they will perform. No change in personnel will be allowed without prior written approval of the Minnesota Department of Health.
- Provide detailed information on the amount and depth of experience Responder has with 1) medical/health care homes; 2) conducting capacity assessments 3) facilitating meetings of various sizes and assisting participants to reach stated objectives; 4) engaging input from consumers of health care; and 5) writing clear concise documents.
- Provide a detailed plan on the process and timelines Responder would use to 1) conduct an assessment of the capacity of health care providers in a variety of settings and geographic locations to implement Health Care Homes, 2) assess statewide consumer understanding and readiness in using Health Care Homes and 3) the process Responder would use to identify and engage stakeholder input. The plan should also outline the process and timelines for the development of a report on the recommendations outlined in Task 2.
- Provide a detailed description of Responders experience as it relates to the scope of work.
- Provide a list and short narrative of similar projects where Responder has experience.

Budget (Two page Limit) Provide a detailed budget for your proposed Response.

- Salary and fringe benefits: indicate for each position the title, the full time equivalent on this activity, the expected rate of pay, the expected fringe benefit rate and the total amount you are expecting to pay under this area.
- Contractual services (subcontracts): list the services you expect to contract out, the contractor's name, and the total amount you expect to pay the contractor.
- Travel: explain your expected travel costs, including mileage, hotel and meals
- Supplies and expense: briefly explain your expected costs in this area
- Other costs: please describe in detail any other costs that do not fit in any of the above areas.

Include under each budget line how the budgeted items were calculated and a brief description of how they support your proposed activities. Please be clear on the total proposed cost of your Response.

Response Delivery

All responses must be in writing and delivered to:

or mailed to:

Department of Health
Janet Olstad
85 East Seventh Place, Suite 220
St. Paul, MN 55101

Department of Health
Janet Olstad
P.O. Box 64882
St. Paul, MN 55164-0882

All proposals must be received not later than 4:30 p.m., Central Time, November 7, 2008. **Late responses will not be considered.** Fax and email responses **will not be** considered. The burden of proving timely receipt is upon the responder.

Response Evaluation

Responses will be evaluated accordingly: **20 percent** on the expressed understanding of Health Care Home and implementation capacity requirements; **30 percent** on the process and timelines to be used in conducting the assessment and the development of the recommendations report; **20 percent** on prior experience and qualifications of personnel; and **30 percent** on cost considerations.

All responses received by the due date and time will be evaluated. **Late proposals will not be considered.**

All costs incurred in responding to this RFP will be borne by the responder.

The Departments have estimated that the cost of this contract should not exceed \$75,000. Cost proposals exceeding this limit will not be considered. Price will be a factor in the evaluation of proposals.

General Requirements

Affidavit of Noncollusion

Each responder must complete the attached Affidavit of Noncollusion and include it with the response.

Conflicts of Interest

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

Proposal Contents

By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

Disposition of Responses

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the Responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

Notwithstanding the above, if the State contracting party is part of the judicial branch, the release of data shall be in accordance with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

Sample Contract

You should be aware of the State's standard contract terms and conditions in preparing your response. A sample State of Minnesota Professional/Technical Services Contract is attached for your reference. Much of the language reflected in the contract is required by statute. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

Reimbursements

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the contractor as a result of the contract will be in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. Reimbursements will not be made for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

Organizational Conflicts of Interest

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD") which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the State's rights.

Preference to Targeted Group and Economically Disadvantaged Business and Individuals

In accordance with Minnesota Rules, part 1230.1810, subpart B and Minnesota Rules, part 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a six percent preference in the evaluation of

their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a six percent preference in the evaluation of their proposal. For information regarding certification, contact the Materials Management Helpline at 651.296.2600, or you may reach the Helpline by email at mmdhelp.line@state.mn.us. For TTY/TDD communications, contact the Helpline through the Minnesota Relay Services at 1.800.627.3529.

Insurance Requirements

- A. Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of the contract..
- B. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:
1. **Workers' Compensation Insurance:** Except as provided below, Contractor must provide 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, including Coverage B, Employer's Liability. Insurance **minimum** amounts are as follows:

\$100,000 – Bodily Injury by Disease per employee
\$500,000 – Bodily Injury by Disease aggregate
\$100,000 – Bodily Injury by Accident

If Minnesota Statute exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

2. **Commercial General Liability:** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance **minimum** amounts are as follows:

\$1,000,000 – per occurrence
\$2,000,000 – annual aggregate
\$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
Other; please list _____
State of Minnesota named as an Additional Insured

3. **Commercial Automobile Liability:** Contractor is required to maintain insurance protecting the contractor from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the contractor will require the subcontractor to provide Commercial Automobile Liability. Insurance **minimum** amounts are as follows:

\$1,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile
State of Minnesota named as an Additional Insured

C. Additional Insurance Conditions:

- Contractor’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of this contract;
- Contractor’s policy(ies) will provide the State of Minnesota with thirty (30) days advance notice of cancellation, nonrenewal, or reduction in limits of coverage or other material change;
- Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- Include legal defense fees in addition to its liability policy limits; and
- Obtain insurance policies from an insurance company having an “AM BEST” rating of A- (minus); Financial Size Category (FSC) VII or better and must be authorized to do business in the State of Minnesota.

- D. The State reserves the right to immediately terminate the contract if the contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.
- E. The successful responder is required to submit acceptable evidence of insurance coverage requirements prior to commencing work under the contract.

**STATE OF MINNESOTA
AFFIDAVIT OF NONCOLLUSION**

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to the _____ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: _____

Authorized Representative (Please Print) _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this _____ day of _____

Notary Public

My commission expires: _____

**STATE OF MINNESOTA
LOCATION OF SERVICE DISCLOSURE AND CERTIFICATION**

LOCATION OF SERVICE DISCLOSURE

Check all that apply:

- The services to be performed under the anticipated contract as specified in our proposal will be performed ENTIRELY within the State of Minnesota.

- The services to be performed under the anticipated contract as specified in our proposal entail work ENTIRELY within another state within the United States.

- The services to be performed under the anticipated contract as specified in our proposal will be performed in part within Minnesota and in part within another state within the United States.

- The services to be performed under the anticipated contract as specified in our proposal DO involve work outside the United States. Below (or attached) is a description of
 - (1) the identity of the company (identify if subcontractor) performing services outside the United States;
 - (2) the location where services under the contract will be performed; and
 - (3) the percentage of work (in dollars) as compared to the whole that will be conducted in each identified foreign location.

CERTIFICATION

By signing this statement, I certify that the information provided above is accurate and that the location where services have been indicated to be performed will not change during the course of the contract without prior, written approval from the State of Minnesota.

Name of Company: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

Telephone Number: _____

State of Minnesota — Immigration Status Certification

By order of the Governor's Executive Order 08-01, vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

E-Verify program information can be found at <http://www.dhs.gov/ximgtn/programs>.

If any response to a solicitation is or could be in excess of \$50,000, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the contract. All subcontractor certifications must be kept on file with the contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and

2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.

Name of Company: _____

Date: _____

Authorized Signature: _____

Telephone Number: _____

Printed Name: _____

Title: _____

If the contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the contract, and/or suspending or debaring the contract vendor from state purchasing.

For assistance with the *E-Verify* Program

Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833).

For assistance with this form, contact:

Mail: 112 Administration Bldg, 50 Sherburne Ave. St. Paul, MN 55155

Email: MMDHelp.Line@state.mn.us

Telephone: 651.296.2600

Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529

If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

STATE OF MINNESOTA PROFESSIONAL AND TECHNICAL SERVICES CONTRACT

This contract is between the State of Minnesota, acting through its _____ ("State") and _____ ("Contractor").

Recitals

1. Under Minn. Stat. § 15.061 and _____ the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of _____.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

Contract

1 Term of Contract

- 1.1 **Effective date:** _____, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 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:** _____, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 14. Data Disclosure.

2 Contractor's Duties

The Contractor, who is not a state employee, will:

3 Time

The Contractor must comply with all the time requirements described in this contract. In the performance of this contract, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** The State will pay for all services performed by the Contractor under this contract as follows:

- (A) **Compensation.** The Contractor will be paid
- (B) **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed \$_____ ; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations and incorporated herein by reference. The Contractor will not be reimbursed for travel and

subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

- (C) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Contractor under this contract will not exceed \$ _____.

4.2. **Payment**

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule:
- (B) **Retainage.** Under Minnesota Statutes Section 16C.08, subdivision 5(b), no more than 90% of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.
- (C) **Federal funds.** (Where applicable, if blank this section does not apply) Payments under this contract will be made from federal funds obtained by the State through Title _____ CFDA number _____ of the _____ Act of _____. The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.

5 **Conditions of Payment**

All services provided by the Contractor under this contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6 **Authorized Representatives**

The State's Authorized Representative is _____, or his/her successor, 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 on each invoice submitted for payment.

The Contractor's Authorized Representative is _____, or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

7 **Assignment, Amendments, Waiver, and Contract Complete**

7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this contract, or their successors in office.

- 7.2 **Amendments.** Any amendment to this contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.
- 7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

8 **Liability**

The Contractor must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this contract by the Contractor or the Contractor's agents or employees. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligations under this contract.

9 **State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this contract.

10 **Government Data Practices and Intellectual Property**

10.1. **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

10.2. **Intellectual Property Rights.**

(A) **Intellectual Property Rights.** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this contract*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this contract. To

the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be “works made for hire.” The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State’s ownership interest in the Works and Documents.

(B) *Obligations*

1. *Notification.* Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this contract, the Contractor will immediately give the State’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. *Representation.* The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor’s expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor’s or the State’s opinion is likely to arise, the Contractor must, at the State’s discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

11 Workers’ Compensation and Other Insurance

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this contract.

Further, Contractor certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers’ compensation insurance coverage. The Contractor’s employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers’ Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State’s obligation or responsibility.

12 Publicity and Endorsement

12.1 *Publicity.* Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State’s Authorized Representative. For purposes of this provision, publicity

includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

12.2 **Endorsement.** The Contractor must not claim that the State endorses its products or services.

13 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this contract. Venue for all legal proceedings out of this contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14 Data Disclosure

Under Minn. Stat. § 270C.65, and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

15 Payment to Subcontractors

(If applicable) As required by Minn. Stat. § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

16 Minn. Stat. § 181.59

The vendor will comply with the provisions of Minn. Stat. § 181.59 which requires: Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

17 Termination

17.1 Termination by the State. The State or commissioner of Administration may cancel this contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

17.2 Termination for Insufficient Funding. The State may immediately terminate this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

19 Foreign Outsourcing

Contractor agrees that the disclosures and certifications made in its Location of Service Disclosure and Certification Form submitted with its proposal are true, accurate and incorporated into this contract by reference.

20 Employee Status

By order of the Governor's Executive Order 08-01, if this contract, including any extension options, is or could be in excess of \$50,000, Contractor certifies that it and its subcontractors:

1. Comply with the Immigration Reform and Control Act of 1986 (U.S.C. 1101 et. seq.) in relation to all employees performing work in the United States and do not knowingly employ persons in violation of the United States' immigrations laws; and
2. By the date of the performance of services under this contract, Contractor and all its subcontractors have implemented or are in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

Contractor shall obtain certifications of compliance with this section from all subcontractors who will participate in the performance of this contract. Subcontractor certifications shall be maintained by Contractor and made available to the state upon request. If Contractor or its subcontractors are not in compliance with 1 or 2 above or have not begun or implemented the *E-Verify* program for all newly hired employees performing work under the contract, the state reserves the right to determine what action it may take including but not limited to, cancelling the contract and/or suspending or debaring the contractor from state purchasing.

[Signatures as required by the state.]