

# State of Minnesota

## Department of Agriculture



### REQUEST FOR PROPOSAL

MAWQCP Nitrogen Enhanced Efficiency Fertilizer Discount Program

Date Posted: March 9, 2026

- Responses must be received not later than 11:59 PM, Central Time on March 30, 2026
- Late responses will not be considered
- As of July 1, 2025, certain terms are unenforceable in state contracts. See Session Laws, 2025 Regular Session, [Chapter 39](#), Article 2, Sec. 45.

#### **Minnesota's Commitment to Diversity and Inclusion**

The State of Minnesota is committed to diversity and inclusion in its public procurement process. The goal is to ensure that those providing goods and services to the State are representative of our Minnesota communities and include businesses owned by minorities, women, veterans, and those with substantial physical disabilities.

Creating broader opportunities for historically under-represented groups provides for additional options and greater competition in the marketplace, creates stronger relationships and engagement within our communities, and fosters economic development and equality.

To further this commitment, the Department of Administration operates a program for Minnesota-based small businesses owned by minorities, women, veterans, and those with substantial physical disabilities. For additional information on this program, or to determine eligibility, please call 651.201.2402 or go to the Office of Equity in Procurement home page, at <https://mn.gov/admin/business/vendor-info/oep/>.

**SPECIAL NOTICE:** This is a request for proposal. It does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is considered in its best interest.

# TABLE OF CONTENTS

## Solicitation Content

<b>SECTION 1 – INSTRUCTIONS TO RESPONDERS .....</b>	<b>3</b>
<b>SECTION 2 – SUMMARY OF SCOPE .....</b>	<b>4</b>
<b>SECTION 3 – PROPOSAL INSTRUCTIONS AND ADDITIONAL INFORMATION .....</b>	<b>8</b>
<b>SECTION 4 – PROPOSAL CONTENT .....</b>	<b>9</b>
<b>SECTION 5 – EVALUATION PROCEDURE AND CRITERIA.....</b>	<b>12</b>
<b>SECTION 6 – UNENFORCEABLE TERMS AND SOLICITATION TERMS .....</b>	<b>14</b>

## Solicitation Attachments

- Attachment A: Responder Declarations
- Attachment B: Exceptions to State's Terms and Conditions
- Attachment C: Responder Form
  - Workforce and Equal Pay Declaration Page
- Attachment D: Cost Detail

## Sample Contract

- Exhibit A: Contract Terms
- Exhibit B: Insurance Requirements
- Exhibit C: Specifications, Duties, and Scope of Work
- Exhibit D: Pricing
- Exhibit E: Reporting Requirements

## SECTION 1 – INSTRUCTIONS TO RESPONDERS

Steps for  
Completing Your  
Response

Follow the steps below to complete your response to this Solicitation:

- Step 1: Read the solicitation documents and ask questions, if any
- Step 2: Write your response
- Step 3: Submit your response

Incomplete  
Submittals

A response must be submitted along with any required additional documents. Incomplete responses that materially deviate from the required format and content may be rejected.

### STEP 1 – READ THE SOLICITATION DOCUMENT & ASK QUESTIONS, IF ANY

How to Ask  
Questions

The contact person for questions is:

Ellen Friedrich

Minnesota Department of Agriculture | Pesticides & Fertilizer Management Division | Minnesota Agricultural Water Quality Certification Program (MAWQCP)

[ellen.friedrich@state.mn.us](mailto:ellen.friedrich@state.mn.us)

651-728-3663

Questions should be emailed to the contact by 03/20/2026. Other personnel are not authorized to answer questions regarding this Solicitation. Addenda to this RFP will be posted at <https://www.mda.state.mn.us/nitrogen-enhanced-efficiency-fertilizers>.

### STEP 2 – WRITE YOUR RESPONSE

The Response Content can be found in Section 4 (starting on page 9) of this proposal. Prepare a written response which addresses all the requested information and documents detailed in Section 4. **DO NOT INCLUDE** Non-Public/Trade Secret data (as defined in this link to [Minn. Stat. § 13.37](#)).

**Review, sign, and include the Responder Declarations with your response.**

### STEP 3 – SUBMIT YOUR RESPONSE

Where to Send  
Your Response

Submit your response via email to:

Ellen Friedrich

Minnesota Department of Agriculture | Minnesota Agricultural Water Quality Certification Program (MAWQCP)

[ellen.friedrich@state.mn.us](mailto:ellen.friedrich@state.mn.us)

Proposals must be received not later than 11:59 PM, Central Time, 03/30/2026. You will receive an email confirming receipt of your response. **Late responses will not be considered.** By submitting a response, responder is making a binding legal offer for the period of time set forth below in Section 6, Conditions of Offer.

## SECTION 2 – SUMMARY OF SCOPE

### 1. Procurement Overview and Goals

The Minnesota Department of Agriculture's (MDA) Minnesota Agricultural Water Quality Certification Program (MAWQCP) has funding to support the use of nitrogen (N) enhanced efficiency fertilizers (EEFs) on farms in Minnesota to mitigate greenhouse gas emissions and promote water quality. For the purposes of this RFP and program, "nitrogen enhanced efficiency fertilizers" (N EEFs) refers to the nitrification inhibitors and urease inhibitors which are on [MDA's list of acceptable nitrogen inhibitor products](#), as well as polymer coated urea.

The Minnesota Agricultural Water Quality Certification Program (MAWQCP) is soliciting proposals from agricultural co-ops who are interested in contracting with MAWQCP to directly provide farmers a price discount on nitrogen enhanced efficiency fertilizers (N EEFs) which are applied on agricultural lands in Minnesota. MAWQCP is offering up to \$10/acre for the documented sale/application of eligible N enhanced efficiency fertilizers, not to exceed 75% of product cost.

Nitrification inhibitors and polymer coated urea qualify for up to \$10/acre; urease inhibitors qualify for up to \$8/acre. At least 80% of the value of all per acre payments distributed to contracted organizations through this program must be directly given to the farmer(s) as a discount on the purchased N EEF product(s). To be eligible, farmers must be 1) certified through MAWQCP, 2) actively working towards MAWQCP certification, or 3) be willing to be contacted by MAWQCP staff to receive further information about the program. Total payments tied to the discounted sale of N EEF products to an individual farm/farmer will not exceed \$10,000.

RFP responses which promote the use of N EEF products in ways which align with recommended nitrogen best management practices and with other State of Minnesota priorities will be competitively prioritized for contract selection. Payments will be dispersed according to satisfactory documentation of the application of an N EEF product that had been sold at a discount by the selected organization(s). Payments will be made on a per acre basis. For an N EEF product sale/application to be eligible for payment through this program, all eligibility requirements must be met.

### 2. Funding Availability

The MDA will use a competitive review process conducted by MDA staff to select contract recipients. An amount of \$1.5 million is currently available through this opportunity. We anticipate that we will award contracts to 3-8 organizations, but the final number depends on the quantity & quality of proposals and the size of selected responders' award requests. The minimum award is \$25,000 and the maximum award is \$400,000. Funds can be used for N EEF applications in 2026. This is a onetime appropriation, but there will likely be similar opportunities available in 2027 and 2028. Funding will be allocated through a competitive process. If your proposal is selected, only expenditures incurred after the contract agreement is fully executed and the contract has reached its effective date will be eligible for reimbursement.

### 3. Eligibility:

#### 3.1 Applying organizations must:

- Be an organization (including a company, government, Tribal Nation, urban American Indian Community, partnership, and any type of civil or political association of people) authorized to do business in Minnesota.

- Be a qualified retailer of nitrogen enhanced efficiency fertilizers (N EEFs)
- Be in good standing with the State of Minnesota. This means:
  - No back taxes owed.
  - No defaults on Minnesota state-backed financing for the last seven years.
  - Acceptable performance on past MDA contracts (if applicable).
  - Compliant with current state regulations.
  - Not on the suspended/debarred vendor list

### 3.2 Eligible Payments:

Payment to organizations with successful responses will NOT exceed any of the following conditions:

- \$10/acre for the sale of nitrification inhibitors and polymer coated urea
- \$8/acre for the sale of urease inhibitors
- 75% of the per acre product costs
- 125% of the value of the discount received by the farmer for purchasing the product (i.e., farmers must receive at least 80% of the value of the program payment associated with their acres)
- \$10,000 for any individual farm/farmer
- The total maximum award for the organization

Payments through the MAWQCP N EEF Program will be dispersed according to documentation of the sale and application of N EEF products which meet all the eligibility requirements outlined in this RFP. Successful responders will be required to provide satisfactory documentation on the eligibility of N EEF applications they are claiming for payment through the program before any payment through their contract will be dispersed. There are no other eligible payment scenarios through this program.

Please note that there are also N EEF funds available to farms which are certified or actively working towards MAWQCP certification directly through [MAWQCP Financial Assistance grants](#). Payment limitations are similar to those outlined above, except that individual farm/farmers have a total payment cap of \$5,000. Farms/farmers are not eligible to receive funding for N EEF use through both MAWQCP funding paths in the same year.

### 3.3 Eligible N EEF Use Cases:

For N EEF product application on an acre to be eligible for payment through this program, all the following eligibility requirements must be met:

- 1) Product Type: The applied nitrogen enhanced efficiency fertilizer (N EEF) must be an eligible product. Eligible N EEF products include:
  - i. Polymer coated urea (e.g., Environmentally Smart Nitrogen, ESN)
  - ii. The nitrogen inhibitor products which are listed on [MDA's Acceptable Nitrogen Inhibitor List](#) as acceptable, or conditionally acceptable, products.
- 2) Product Rate: Products must be applied at acceptable rates according to label guidance or the rate specified in [MDA's Acceptable Nitrogen Inhibitor List](#). If applicable, the acceptable rate indicated in [MDA's Acceptable Nitrogen Inhibitor List](#) supersedes label rates (if there is superseding MDA rate guidance for a listed product, it will be indicated in a footnote for the product under Table 1 or Table 2 of the document). For polymer coated urea, polymer coated urea must account for at least 30% of the nitrogen in the fertilizer blend.
- 3) Location of Application: Products must be applied on agricultural land located in Minnesota.

- 4) Farmer Engagement with MAWQCP: Farmers/farms receiving a discount for a N EEF product through this program must be certified or actively working with the [Minnesota Agricultural Water Quality Certification Program](#) (MAWQCP) or, if not, they must agree to be contacted by MAWQCP staff to receive further information about the program.
- 5) Product Sold by Selected Responder: The N EEF product must have been sold by the selected organization.
- 6) Discount Given to Farmer: The farmer must have received a discount on the per acre price of the N EEF product through the selected organization.
- 7) MAWQCP N EEF Payment Limits: The farmer/farm must not be receiving payment for applying N EEF products through a MAWQCP grant in that same calendar year. The total value of a farm/farmer's discount received through selected responder(s) under the MAWQCP N EEF Program cannot exceed \$10,000.

#### 4. Funding Priorities:

The primary goal of this funding is to mitigate greenhouse gas emissions and reduce water quality risks by supporting the use of nitrogen enhanced efficiency fertilizers on farmland in Minnesota. The MDA has identified priority use case scenarios for N EEF products and these funds which will help optimize the promotion of environmental and equitable outcomes. Responders' proposals will be competitively scored and ranked according to how well eligible proposed projects advance and/or align with these priorities. Program funding priorities include:

1. Use of N EEFs in [Vulnerable Groundwater Areas](#)
2. Use of N EEFs in moderately or highly vulnerable [Source Water Protection Areas](#)
3. Use of N EEFs in conditions which align with the University of Minnesota's (UMN) [Nitrogen Fertilizer Best Management Practices](#) guidance
4. Use of N EEFs on farms which have not regularly used enhanced efficiency fertilizers in the past
5. Use of N EEFs in scenarios which lead a farmer to lower their N rates by at least 15% compared to what they would have otherwise used
6. Use of N EEFs in watersheds with high nitrogen loading reduction priorities e.g., the Lower Mississippi River Basin and the Minnesota River Basin
  - a. [2025 Minnesota Nutrient Reduction Strategy](#): Figure 2-31 on page 70 shows a map of HUC-8 watersheds with their TN load reduction goals. Figure 3-26 on page 113 shows a map of nitrate priority watersheds.
  - b. [Minnesota's watershed basins](#)
7. Support of nitrogen management practices on farms which align with the University of Minnesota's [Nitrogen Fertilizer Best Management Practices](#) and [nitrogen rate recommendations](#).
8. Support of organizations which are actively working to support/promote the [Minnesota Agricultural Water Quality Certification Program](#) (MAWQCP) and/or working to support farmers who are making changes as part of the process of working towards MAWQCP certification
9. Support of organizations which are actively certified under or working with the [Minnesota 4R Nutrient Stewardship Certification Program](#).
10. Support of organizations which are located within and/or serve [low-income and disadvantaged communities \(LIDACs\)](#) as defined in the 2024 Environmental Protection Agency Climate Protection Reduction Grant.

#### 5. Sample Tasks and Deliverables.

This program is focused on supporting the effective use of N EEF products on agricultural acres in Minnesota. Deliverables include the documentation of the selected responder's discounted sales of N EEF products which were applied on acres in Minnesota. For any acre to be eligible for payment, reporting documentation must satisfactorily show that all the eligibility requirements outlined in this RFP were met.

## 5.1 Reporting:

Payment through the MAWQCP N EEF Program is dispersed only according to satisfactory responder documentation of the sale and application of N EEF products in scenarios which meet all program eligibility requirements. The following is a list of the information contracted organizations will need to provide on every farm/farmer given a N EEF product discount through this program to be paid:

- Farm/Farmer Name
- MAWQCP Certification Status of Farm/Farmer (*None, but willing to be contacted by MAWQCP staff; Applied; Assessed; Assessed & Actively Working towards Certification; Certified*)
- Product Class (*Nitrification inhibitor; Urease inhibitor; Polymer coated urea*)
- Product Name
- Regular Product Price/Acre
- Discounted Price/Acre Farmer Received
- Number of acres in Minnesota treated with the N EEF product
- Attestation that product was applied at an acceptable rate on the treated acres
- Indication of whether the farm regularly used this type of product in the past (*Yes/No*)

To receive reimbursement, selected responders must submit the following completed documents:

- A reporting spreadsheet with line-item entries for every farm/farmer to whom the selected responder sold N EEF products that were applied in scenarios eligible to receive support through this program (see Attachment D for a draft example of this reporting spreadsheet). In cases where the selected responder is not applying the discounted product themselves, they must work with the farmer/applicator to accurately report the number of acres in Minnesota where the product was applied at an acceptable rate.
- An invoice for every individual farm/farmer that shows 1) the product that was sold, 2) the normal per acre price of the product charged by the selected responder, 3) the per acre discount value received by the farmer on the product, and 4) the total discount value received by the farmer for the N EEF product(s).
- A form signed by the farmer who received an N EEF discount, attesting to their eligibility to receive funding through this program. This will include information on the status of their participation with MAWQCP, among other things. Farmers not already certified with MAWQCP or actively working towards certification must agree to being contacted by MAWQCP staff to receive information about the MAWQCP.
- Documentation on how claimed overhead costs (the portion of payments which does not go directly to the farmer in the value of a discount on an N EEF product) were expended in support of the project. This might include, but is not limited to, documentation on the staff time spent on project administration, staff time offering farmers technical support on N EEF products, or cost of printed outreach materials.

### SECTION 3 – PROPOSAL INSTRUCTIONS AND ADDITIONAL INFORMATION

**1. Anticipated Contract Term.**

The term of this contract is anticipated to be from April 2026 to December 2026.

**2. Question and Answer Instructions.**

All questions should be submitted no later than the date and time listed in Section 1, Instructions to Responders. The State is not obligated to answer questions submitted after the question due date and time.

Only personnel listed above are authorized to discuss this solicitation with responders. Contact regarding this solicitation with any personnel not listed above could result in disqualification. This provision is not intended to prevent responders from seeking guidance from state procurement assistance programs regarding general procurement questions.

If a Responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the solicitation, please immediately notify the contact person detailed above in writing of such error and request modification or clarification of the document.

## SECTION 4 – PROPOSAL CONTENT

Please answer the following questions and submit requested documents. Be sure to reference Section 2 of this RFP for information around funding parameters, eligibility criteria, and funding priorities. **Responses will be competitively scored and ranked according to how well eligible proposed projects advance and/or align with funding priorities.**

DO NOT INCLUDE Non-Public/Trade Secret data (as defined by Minn. Stat. § 13.37).

- 1) Provide the following basic information about your organization:
  - a. Applicant Name:
  - b. Organization Name:
  - c. Organization Mailing Address:
  - d. Organization County:
  - e. Organization Telephone:
  - f. Organization Email:
  - g. Organization Website:
- 2) Provide a summary of your organization and its mission/work. Include a description of your work with nitrogen management.
- 3) Does your organization currently sell and/or apply any nitrogen enhanced efficiency fertilizer (N EEF) products? If so, provide a brief description of your work in that space.
- 4) Describe what, if any, involvement your organization has had with promoting the Minnesota Agricultural Water Quality Certification Program (MAWQCP) and/or supporting farms in becoming Water Quality Certified Farms.
- 5) Describe what, if any, involvement your organization has had with working with the Minnesota 4R Nutrient Stewardship Certification Program.
- 6) Describe your familiarity with and work in promoting University of Minnesota's Maximum Return to Nitrogen (MRTN) approach & UMN's recommended nitrogen rates. Please characterize your ability & willingness to help farmers better align with UMN's nitrogen rate recommendation.
- 7) Provide a general description of your customer base and service area location(s), as well as a map of your service area. Responders are encouraged to include any helpful supporting documentation.
- 8) (OPTIONAL: You are not required to respond to this question but any information you do provide may impact your ranking score.) The service area map(s) you provided in response to question 7 will be used, in part, to identify ways your service area intersects with MDA priority service areas. (Please go to Section 2: 4. Funding Priorities on page 6 of this RFP for more information on these areas and how they are defined). You may also use the space below to explicitly highlight and/or describe the ways your service area intersects with each of these priority service areas.
  - a. Low-income and disadvantaged communities (LIDACS):
  - b. Vulnerable groundwater areas:
  - c. Source Water Protection Areas with high or moderate vulnerability:
  - d. Watersheds with high nitrogen loading reduction priorities:

- 9) Provide a description of your past sales and application of N fertilizer products, including information about nitrogen enhanced efficiency fertilizers. Please provide an estimate of the number of acres and farms where you've applied N EEF products in past years. Responders are encouraged to include any helpful supporting documentation.
- 10) Indicate whether the following statements hold true to your organization:
- a. My organization is in good standing with the State of Minnesota. (No back taxes owed, no defaults on Minnesota state-backed financing for the past seven years, in compliance with current state regulations, and acceptable performance on past MDA contracts.) *(Yes/No)*
  - b. My organization is in Minnesota and/or authorized to conduct business in Minnesota. *(Yes/No)*
  - c. The principals of the applicant are not employees of the MDA nor are their spouses. *(Yes/No)*
  - d. My organization is able to meet the reporting requirements and timeline deadlines as outlined in the RFP. *(Yes/No)*
- 11) Describe the outreach strategies you would use to spread the word to farmers about the available discounts for enhanced efficiency N fertilizers.
- 12) Provide an overview of your plan to distribute any awarded funds across farms/acres. Please include a description of the ranking structure and/or prioritization criteria you would use in deciding which farmers/acres receive discounts.
- 13) Describe how you will promote the use of enhanced efficiency nitrogen fertilizers by farmers who have not regularly used N EEF products in the past.
- 14) Describe how you will promote the use of enhanced efficiency nitrogen fertilizers in ways which align with UMN's regional nitrogen best management practices and other relevant use-case recommendations for these products.
- 15) Describe how you will help and encourage farmers to strategically lower their nitrogen application rates in conjunction with the use of enhanced efficiency fertilizers when appropriate.
- 16) Complete and submit the Cost Detail request, Attachment D on this RFP.
- 17) Complete and submit the Responder Declaration request, Attachment A on this RFP.
- 18) Complete and submit the Exceptions to State's Term and Conditions request, Attachment B on this RFP.
- 19) If the total dollar value of your contract request exceeds \$100,000, complete and submit the Workforce and Equal Pay Declaration Page, Attachment C on this RFP. (Please note that you are not required to fill out the Equal Pay portion of the form since the maximum contract award through this program is less than \$500,000). If your contract request is \$100,000 or less, please write N/A.

Prior to award, all potentially selected Responders may be required to submit samples of transaction documents proposed for use under the resulting contract. The State will review the transaction documents to ensure they contain sufficient detail and to review additional terms and conditions contained therein, if any. The State reserves the right to request additional detail in the transaction documents or to reject additional terms and conditions within transaction documents. Once approved by the State, the selected responder may not materially change transaction documents unless a change has been approved in writing by the Commissioner of Administration, as delegated to the Office of State Procurement. Any terms and conditions included in transaction documents but not approved by the State are voidable by the State. Any terms and conditions that are in conflict with Minnesota law or in conflict with the terms of the State Contract are void. Failure to void a non-approved term or condition included in a transaction document does not waive the State's right to void any non-approved term or condition

## SECTION 5 – EVALUATION PROCEDURE AND CRITERIA

The State will conduct an evaluation of responses to this Solicitation. The evaluations will be conducted in three phases:

Phase 1 - Review responses for responsiveness and pass/fail requirements

Phase 2 - Evaluate responses

Phase 3 - Select finalist(s)

### 1. Phase 1 – Responsiveness and Pass/Fail Requirements

The purpose of this phase is to determine if each response complies with mandatory requirements. The State will first review each proposal for responsiveness to determine if the Responder satisfies all mandatory requirements. The State will evaluate these requirements on a pass/fail basis.

Mandatory Requirements. The following will be considered on a pass/fail basis:

- Responses must be received by the due date and time specified in this RFP.
- Responses must include an award request between \$25,000 and \$400,000
- Responders must be an organization (including a company, government, Tribal Nation, urban American Indian Community, partnership, and any type of civil or political association of people) authorized to do business in Minnesota.
- Responder must be a retailer and applicator of nitrogen enhanced efficiency fertilizers (N EEFs)
- Responder must be in good standing with the State of Minnesota.
- Responses must propose a project which will support the application of N EEF products in scenarios which meet all the eligibility requirements.
- Responder must be able to meet the reporting requirements and timeline deadlines as outlined in the RFP

### 2. Phase 2 - Evaluate Responses

Only those responses found to have met Phase 1 criteria will be considered in Phase 2.

The factors and weighing on which responses will be evaluated are:

#### Responders Background:

- |   |            |
|---|------------|
| 1. Responder's Experience and Suitability       | 150 points |
| 2. Responder's Involvement with MAWQCP          | 100 points |
| 3. Responders Involvement with 4R Certification | 100 points |

#### Project Plan & Budget:

- |                  |            |
|------------------|------------|
| 4. Outreach Plan | 50 points  |
| 5. Cost Detail   | 300 points |

#### Alignment with MDA Priorities:

- |  |           |
|--|-----------|
| 1. Increase adoption of N EEFs                         | 50 points |
| 2. N EEF Use Alignment with UMN N BMPS                 | 75 points |
| 3. N Rate Alignment with the UMN MRTN Approach         | 75 points |
| 4. N EEF use in Vulnerable Water Quality Areas         | 50 points |
| 5. Support of Low-Income and Disadvantaged Communities | 50 points |

### 3. **Phase 3 - Select Finalist(s)**

Only those responses that have been evaluated under Phase 2 shall be eligible for Phase 3.

The State will make its selection based on best value, as determined by this evaluation process. The State reserves the right to pursue negotiations on any exception taken to the State's standard terms and conditions. In the event that negotiated terms cannot be reached, the State reserves the right to terminate negotiations and begin negotiating with the next highest scoring responder or take other actions as the State deems appropriate. If the State anticipates multiple awards, the State reserves the right to negotiate with more than one Responder.

It is anticipated that the evaluation and selection will be completed by April 17, 2026.

## SECTION 6 – UNENFORCEABLE TERMS AND SOLICITATION TERMS

### Unenforceable Terms

As of July 1, 2025, certain terms are unenforceable in state contracts. See Session Laws, 2025 Regular Session, [Chapter 39](#), Article 2, Section 45.

#### Unenforceable terms

- (a) A contract entered into by the state shall not contain a term that:
- (1) requires the state to defend, indemnify, or hold harmless another person or entity, unless specifically authorized by statute;
  - (2) binds a party by terms and conditions that may be unilaterally changed by the other party;
  - (3) requires mandatory arbitration;
  - (4) attempts to extend arbitration obligations to disputes unrelated to the original contract;
  - (5) construes the contract in accordance with the laws of a state other than Minnesota;
  - (6) obligates state funds in subsequent fiscal years in the form of automatic renewal as defined in section 325G.56; or
  - (7) is inconsistent with chapter 13, the Minnesota Government Data Practices Act.
- (b) If a contract is entered into that contains a term prohibited in paragraph (a), that term shall be void and the contract is enforceable as if it did not contain that term.

### Solicitation Terms

#### 1. Competition in Responding

The State desires open and fair competition. Questions from responders regarding any of the requirements of the Solicitation must be submitted in writing to the Solicitation Administrator listed in the Solicitation before the due date and time. If changes are made the State will issue an addendum.

Any evidence of collusion among responders in any form designed to defeat competitive responses will be reported to the Minnesota Attorney General for investigation and appropriate action.

#### 2. Addenda to the Solicitation

Changes to the Solicitation will be made by addendum with notification and posted in the same manner as the original Solicitation. Any addenda issued will become part of the Solicitation.

#### 3. Data Security - Foreign Outsourcing of Work is Prohibited

All storage and processing of information shall be performed within the borders of the United States. This provision also applies to work performed by subcontractors at all levels.

#### **4. Joint Ventures**

The State allows joint ventures among groups of responders when responding to the solicitation. However, one responder must submit a response on behalf of all the others in the group. The responder that submits the response will be considered legally responsible for the response (and the contract, if awarded).

#### **5. Withdrawing Response**

A responder may withdraw its response prior to the due date and time of the Solicitation. For solicitations in the SWIFT Supplier Portal, a responder may withdraw its response from the SWIFT Supplier Portal. For solicitations done any other way, a responder may withdraw its response by notifying the Solicitation Administrator in writing of the desire to withdraw.

After the due date and time of this Solicitation, a responder may withdraw a response only upon showing that an obvious error exists in the response. The showing and request for withdrawal must be made in writing to Solicitation Administrator within a reasonable time and prior to the State's detrimental reliance on the response.

#### **6. Rights Reserved**

The State reserves the right to:

- Reject any and all responses received;
- Waive or modify any informalities, irregularities, or inconsistencies in the responses received;
- Negotiate with the highest scoring Responder[s];
- Terminate negotiations and select the next response providing the best value for the State;
- Consider documented past performance resulting from a State contract may be considered in the evaluation process;
- Short list the highest scoring Responders;
- Require Responders to conduct presentations, demonstrations, or submit samples;
- Interview key personnel or references;
- Request a best and final offer from one or more Responders;
- The State reserves the right to request additional information ; and
- The State reserves the right to use estimated usage or scenarios for the purpose of conducting pricing evaluations. The State reserves the right to modify scenarios, and to request or add additional scenarios for the evaluation.

#### **7. Samples and Demonstrations**

Upon request, Responders are to provide samples to the State at no charge. Except for those destroyed or mutilated in testing, the State will return samples if requested and at the Responder's expense. All costs to conduct and associated with a demonstration will be the sole responsibility of the Responder.

#### **8. Responses are Nonpublic during Evaluation Process**

All materials submitted in response to this Solicitation will become property of the State. During the evaluation process, all information concerning the responses submitted will remain private or nonpublic and will not be disclosed to anyone whose official duties do not require such knowledge. Responses are private or nonpublic data until the completion of the evaluation process as defined by Minn. Stat. § 13.591. The completion of the evaluation process is defined as the State having completed negotiating a contract with the selected responder. The State will notify all responders in writing of the evaluation results.

#### **9. Trade Secret Information**

- 9.1 Responders must not submit as part of their response trade secret material, as defined by Minn. Stat. § 13.37.

9.2 In the event trade secret data are submitted, Responder must defend any action seeking release of data it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the State in favor of the party requesting the data, and any and all costs connected with that defense.

9.3 The State does not consider cost or prices to be trade secret material, as defined by Minn. Stat. § 13.37.

9.4 A responder may present and discuss trade secret information during an interview or demonstration with the State, if applicable.

#### **10. Conditions of Offer**

Unless otherwise approved in writing by the State, Responder's cost proposal and all terms offered in its response that pertain to the completion of professional and technical services and general services will remain firm for 180 days, until they are accepted or rejected by the State, or they are changed by further negotiations with the State prior to contract execution.

#### **11. Award**

Any award that may result from this solicitation will be based upon the total accumulated points as established in the solicitation. The State reserves the right to award this solicitation to a single Responder, or to multiple Responders, whichever is in the best interest of the State, providing each Responder is in compliance with all terms and conditions of the solicitation. The State reserves the right to accept all or part of an offer, to reject all offers, to cancel the solicitation, or to re-issue the solicitation, whichever is in the best interest of the State.

#### **12. Requirements Prior to Contract Execution**

Prior to contract execution, a responder receiving a contract award must comply with any submittal requests. A submittal request may include a Certificate of Insurance, license agreements, maintenance agreements or any other terms and conditions relevant to the work under a resulting contract. Review and approval by the State will be required prior to contract execution. In the event Responder fails to comply with a request under this provision, Responder agrees that it will not seek to enforce terms and conditions of any such agreement against the State. Further, failure to provide any of the pertinent documents upon request may result in the State not agreeing to sign any additional documents, rejecting your response, or cancelling the award.