**ITN Template**

**December 2019**

Note to users: This template provides language for procurement to use in an Invitation to Negotiate (ITN). This template includes sections for Administrative Information, Vendor Response Instructions/Format, and Evaluation, Negotiation and Award. This template does not include sections for Background/Overview, Problem Statement/Statement of Work and the draft contract to post with the ITN.

Tips on how to use the template:

* Start with the SPCO LMS ITN template every time you create an ITN document instead of using a previous ITN. This will ensure you are getting the latest updated version from the SPCO.
* Copy language into an ITN or use the Save As feature in Word to create your own document.
* Fill in the blanks such as ITN number and title, dates, contact info, addresses. To locate areas that need completion or modification, use the Find feature and search for an asterisk. (\*) Delete asterisk when completed.
* Make any additional applicable modifications.
* Don’t include provisions that are already in the draft contract you will be publishing along with the ITN
* Be consistent – for example, if “project” and “work” mean the same thing, use one.
* Use spellcheck and correct spelling or grammatical errors.
* Get SPCO review and approval.
* READ the document in its entirety before publishing!

TABLE OF CONTENTS

[I. ADMINISTRATIVE INFORMATION 4](#_Toc28592603)

[A. ISSUING OFFICE 4](#_Toc28592604)

[B. STATE POINT OF CONTACT (STATE POC) 4](#_Toc28592605)

[C. PURPOSE 4](#_Toc28592606)

[D. ITN OVERVIEW AND AUTHORITY 4](#_Toc28592607)

[E. ELECTRONIC PROCUREMENT SYSTEM (EPS) 4](#_Toc28592608)

[F. SCHEDULE OF ACTIVITIES 5](#_Toc28592609)

[G. PRE-RESPONSE MEETING 5](#_Toc28592610)

[H. VENDOR INQUIRIES 6](#_Toc28592611)

[I. CONTRACT TERM 6](#_Toc28592612)

[J. MODIFICATIONS AND/OR SUPPLEMENTAL INFORMATION TO THE ITN 6](#_Toc28592613)

[K. MODIFICATIONS OR WITHDRAWAL OF RESPONSES 6](#_Toc28592614)

[L. MISTAKES AND MINOR INFORMALITIES IN VENDOR RESPONSES 7](#_Toc28592615)

[M. VENDOR ACCEPTANCE OF ITN TERMS/VENDOR RESPONSE CONTENT 7](#_Toc28592616)

[N. ITN RESPONSE MATERIAL OWNERSHIP 7](#_Toc28592617)

[O. INCURRING COSTS 7](#_Toc28592618)

[P. CONFIDENTIALITY OF ITN PROCESS 7](#_Toc28592619)

[Q. ITN CANCELLATION/REJECTION OF VENDOR RESPONSE(S) 7](#_Toc28592620)

[R. NEWS RELEASES AND ANNOUNCEMENTS 8](#_Toc28592621)

[S. PROTESTED SOLICITATIONS AND AWARDS 8](#_Toc28592622)

[II. BACKGROUND, OVERVIEW AND GOALS 8](#_Toc28592623)

[A. BACKGROUND 8](#_Toc28592624)

[III. PROBLEM STATEMENT/SCOPE OF WORK 8](#_Toc28592625)

[IV. VENDOR RESPONSE FORMAT 9](#_Toc28592626)

[A. RESPONSE SUBMISSION DEADLINE AND ADDRESS 9](#_Toc28592627)

[B. TIMELINESS OF RESPONSE SUBMISSION 9](#_Toc28592628)

[C. VENDOR INFORMATION/PARENT COMPANY 9](#_Toc28592629)

[D. GENERAL INFORMATION FOR ITN RESPONSE 9](#_Toc28592630)

[E. VENDOR RESPONSE SIGNATURE PAGE AND CERTIFICATION 10](#_Toc28592631)

[F. VENDOR REQUESTS FOR CONFIDENTIALITY 10](#_Toc28592632)

[G. RESPONSE SUBMISSION 11](#_Toc28592633)

[H. PRICING: 12](#_Toc28592634)

[I. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION 12](#_Toc28592635)

[J. MULTIPLE OR ALTERNATE RESPONSES 12](#_Toc28592636)

[K. MODIFICATIONS TO STATE CONTRACT 13](#_Toc28592637)

[L. CONTRACT PERFORMANCE OUTSIDE COLORADO OR THE UNITED STATES 13](#_Toc28592638)

[M. VENDOR CAPABILITY AND FINANCIAL INFORMATION 13](#_Toc28592639)

[N. VENDOR DISCLOSURE REQUIREMENTS 13](#_Toc28592640)

[O. DEBARMENT AND SUSPENSION 14](#_Toc28592641)

[P. CONFLICTS OF INTEREST/ETHICS 14](#_Toc28592642)

[V. EVALUATION AND AWARD 15](#_Toc28592643)

[A. OVERVIEW 15](#_Toc28592644)

[B. EVALUATION FACTORS 15](#_Toc28592645)

[C. NON-NEGOTIABLE ITEMS 16](#_Toc28592646)

[D. RESIDENT VENDOR PREFERENCE 16](#_Toc28592647)

[E. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES (SDVOSB) 16](#_Toc28592648)

[F. EVALUATION PROCESS 16](#_Toc28592649)

[G. NEGOTIATIONS PROCESS 17](#_Toc28592650)

[H. TIMELINESS OF NEGOTIATIONS 17](#_Toc28592651)

[I. PRESENTATION/SITE VISIT 17](#_Toc28592652)

[J. BEST AND FINAL OFFER 18](#_Toc28592653)

[K. AWARD 18](#_Toc28592654)

[L. CONTRACT 18](#_Toc28592655)

[M. STATE CANCELLATION OF ITN AWARD 18](#_Toc28592656)

[N. STATE OWNERSHIP OF CONTRACT PRODUCTS/SERVICES 19](#_Toc28592657)

[VI. VENDOR RESPONSE SIGNATURE PAGE 20](#_Toc28592658)

# ADMINISTRATIVE INFORMATION

### **ISSUING** OFFICE

This Invitation to Negotiate (ITN) is issued by the State of Colorado, (\**insert Department or IHE information*) (State).

### STATE POINT OF CONTACT (STATE POC)

The ***sole*** State point of contact (State POC) concerning this ITN is:

\*(*insert name, title, address, phone, email*)

All official communication must be done through the State POC.

### PURPOSE

The purpose of the ITN is \*(*insert high-level goal of the ITN*).

### ITN OVERVIEW AND AUTHORITY

This ITN is issued pursuant to, and subject to the State of Colorado Procurement Code (§24-101-101 through §24-112-101, CRS) and its enabling Procurement Rules, 1 CCR 101-9. The Procurement Code and Rules are available for viewing here: <https://www.colorado.gov/pacific/osc/procurement-resources>. Any conflict between the information in this ITN and the Procurement Code or Procurement Rules will be resolved in favor of the applicable provision of the Procurement Code or Procurement Rules.

For more information on the ITN solicitation process, reference <https://www.colorado.gov/pacific/osc/procurement-training-0>, and click “Resources” under “Vendor Training”

Unless otherwise specified elsewhere in this ITN, any definitions in this ITN are supplemental to the definitions in the Procurement Code and Rules. In the event of a conflict of terms, the order of precedence will be the Colorado Revised Statutes, the Procurement Rules, the Personal Services Draft Contract, and finally this ITN.

### ELECTRONIC PROCUREMENT SYSTEM (EPS)

The State posts solicitations on an electronic procurement system (EPS). Vendors who have an interest may submit a response in accordance with the terms of the ITN.

The EPS for this solicitation is:

\*(*insert EPS here, including help desk information*)

\**SAMPLE FOR COLORADOVSS (delete if using another EPS):*

*ColoradoVSS (*[*https://www.colorado.gov/VSS*](https://www.colorado.gov/VSS)*)*

*Help Desk at 303-866-6464 for further assistance*

*Vendors can self-register for this system free of charge, or may click on “Public Access” at the EPS site to view solicitation documents and modifications without registering. Vendors are highly encouraged but not required to register prior to, or at the time they submit their response. The State strongly recommends that interested vendors check the EPS on a regular basis throughout this solicitation process.*

### SCHEDULE OF ACTIVITIES

|  |  |
| --- | --- |
| **Activity** | **Date** |
| Publish ITN | \* |
| Pre-response meeting  *\*(If applicable, indicate if mandatory)* | \*(*insert date if applicable or “N/A”)*  Reference “Pre-Response Meeting” section below, for more information. |
| Deadline for submitting inquiries | Date:\*  Time:\* |
| Response submission deadline | Date:\*  Time:\*  The State will not accept late responses. |
| Determination of competitive range (estimated) | \* |
| Negotiations may commence with vendor(s) in competitive range (estimated) | \* |
| Notice of intent to award (estimated) | \* |
| Contract start date (estimated) | \**be sure to use same information as in the Contract Term section below* |
| Anticipated contract performance period (estimated) | \**be sure to use same information as in the Contract Term section below* |

### PRE-RESPONSE MEETING

The State will hold a Pre-Response Meeting as indicated in the Schedule of Activities. \*(*include details: whether optional or mandatory, date, time, location, call in number, any rules – who must attend, must be on time*).

\*(*Pick either the paragraph above or the paragraph below. Delete the option that does not apply.*)

The State is not holding a pre-response meeting. Vendors are encouraged to consider submitting inquiries per the Vendor Inquiries section.

### VENDOR INQUIRIES

Vendors may make written inquiries (via mail or email) concerning this ITN to obtain clarification of requirements. The State may not accept inquiries after the date and time indicated in the Schedule of Activities. Send all inquiries to the State POC identified above. Inquiries must be clearly marked with the ITN number and title. Where appropriate, inquiries should include references to any relevant section/paragraph of the ITN.

The State will publish responses to vendors’ inquiries collectively, in a timely manner, as a modification on the EPS. Vendors are responsible for monitoring Colorado VSS for such publication(s). Vendors shall not rely on any verbal statements that alter any specification or other term or condition of the ITN. Such changes are valid only if provided in writing by the State POC.

### CONTRACT TERM

Unless otherwise negotiated, the estimated contract performance period will be from \*(*insert estimated start and end dates of initial term)*, with \*(*insert number of option years*) twelve (12) month optional extension periods, in the State’s sole discretion.

### MODIFICATIONS AND/OR SUPPLEMENTAL INFORMATION TO THE ITN

The State will publish any modifications, amendments or supplemental information to the ITN on the EPS. In the event that it becomes necessary to revise any part of this ITN, the State will post a modification notice on the EPS.

It is the vendors’ sole responsibility to check the EPS on a regular basis, prior to the response submission deadline, as this is the primary means for communicating any clarifications or changes to ITN content, timeline and/or requirements.

After the deadline for submission of a response to the ITN and during evaluation, all official communications are through the State POC.

### MODIFICATIONS OR WITHDRAWAL OF RESPONSES

A vendor may modify or withdraw its response by written notice to the State POC prior to the established response submission deadline. Withdrawal of a vendor’s response following the response submission deadline and prior to award may be allowed, in the State’s discretion. Withdrawal of a vendor’s response after award is not allowed. Reference Procurement Rules R-24-103-201-08 and R-24-103-201-09.

### MISTAKES AND MINOR INFORMALITIES IN VENDOR RESPONSES

In certain circumstances, a vendor may correct a mistake(s) in its response and/or the State may waive minor informalities. Reference Procurement Rule R-24-103-201-08.

### VENDOR ACCEPTANCE OF ITN TERMS/VENDOR RESPONSE CONTENT

A vendor response to this ITN shall constitute a binding offer. The autographic signature of the vendor shall indicate acknowledgment of this condition. Signature shall be that of a person legally authorized to execute contractual obligations. The response, including pricing, shall allow for a minimum of 180 calendar days for acceptance by the State, unless otherwise specified in this ITN. Reference Procurement Rule R- 24-103-201-11(d). It is acceptable for a vendor to offer a longer term.

The contents of the response of the successful vendor will become contractual obligations if acquisition action ensues. Failure of the successful vendor to accept these obligations in a contract, purchase order, or similar authorized commitment voucher may result in cancellation of the award to that vendor.

### ITN RESPONSE MATERIAL OWNERSHIP

All material submitted regarding this ITN becomes the property of the State.

### INCURRING COSTS

Vendors are solely responsible for all costs incurred as a result of responding to the ITN, to include participation in presentations or negotiations.

### CONFIDENTIALITY OF ITN PROCESS

Following the ITN response submission deadline, individuals/entities may request from the State POC a list of the names of the responding vendors. All other information related to the ITN evaluation/negotiation/award process will remain confidential until award.

Following the notice of intent to award, all vendor responses will be open to public inspection with the exception of information determined by the State to be a trade secret or confidential or proprietary. Reference §24-72-201 et seq., CRS, as amended, Public (Open) Records.

### ITN CANCELLATION/REJECTION OF VENDOR RESPONSE(S)

The State may cancel this ITN, or any or all responses may be rejected in whole or in part, without penalty, at any time before a contract is executed, when it is in the best interests of the State. Reference §24-103-301, CRS, and related Procurement Rules. The reason and documentation supporting the decision to cancel the ITN or reject response(s) shall remain confidential for the lesser of six months or until the contract at issue is awarded by the State. Reference Procurement Rule R-24-101-401-05.

If the ITN is cancelled after responses are received, the responses that have been opened shall be retained in the procurement record, or if unopened, returned to the vendors upon request, at vendor expense, or otherwise disposed of.

### NEWS RELEASES AND ANNOUNCEMENTS

Vendors shall not issue any news releases, communications or announcements of any kind pertaining to this ITN, vendor responses or award without prior written approval by the State.

### PROTESTED SOLICITATIONS AND AWARDS

An aggrieved party may file a protest concerning a material issue(s), at any phase of solicitation or award, including but not limited to specifications, award, or a disclosure of information marked confidential in the response. The protest shall be submitted to the Procurement Official for the issuing agency, in writing, within ten (10) business days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Reference §24-109-102, CRS, as amended, and Procurement Rule R-24-109-102-01, et seq.

Procurement Official:

\*(insert name, address, phone, email)

# BACKGROUND, OVERVIEW AND GOALS

\*(*This section is optional. If your ITN does not need a section on background, overview and goals then delete in its entirety and renumber the remaining sections.)*

### BACKGROUND

# PROBLEM STATEMENT/SCOPE OF WORK

\*(*This section is required.)*

# VENDOR RESPONSE FORMAT

### RESPONSE SUBMISSION DEADLINE AND ADDRESS

Response Submission Deadline: See Schedule of Activities, above.

Submit the response to: \*(*insert name, title, address, any specific instructions such as if the address listed is a PO Box or similar, provide instructions as to how to deliver in person, or via next day delivery service that may require a physical address, etc.*)

### TIMELINESS OF RESPONSE SUBMISSION

Responses received after the submission deadline shall not be opened and shall be rejected as a late response, unless otherwise permitted by the procurement official in accordance with Procurement Rule R-24-103-201-10.

The responsibility for ensuring that a vendor's response is received on time rests with the vendor. Reasonably foreseeable problems inherent in the delivery of responses are not extraordinary circumstances permitting acceptance of late responses. Vendors mailing their responses shall allow sufficient mail delivery time to ensure receipt of their responses by the date and time specified. A postmark is not sufficient for timely submission.

### VENDOR INFORMATION/PARENT COMPANY

The vendor response must include a valid tax identification number for the vendor. The vendor must be a legal entity with the legal right to contract in the State of Colorado. If a vendor is owned or controlled by a parent company, the response must also identify the name, main office address, and tax identification number of the parent company. The tax identification number provided with the vendor’s signature must be that of the vendor responding to this ITN.

### GENERAL INFORMATION FOR ITN RESPONSE

Vendors are encouraged to review the ITN and related attachments in its entirety to assure understanding of and compliance with requirements that may be included in these documents.

To facilitate evaluation of responses, a response should be thorough yet brief. A response should address the requirements set forth in the ITN and should provide sufficient details to allow the committee(s) to determine whether the response evidences:

* Understanding of the State’s needs, requirements and contracting terms and conditions; and
* Ability to meet the State’s needs, including the experience and resources necessary to carry out the work towards meeting the State’s needs; and
* Costs that are reasonable and consistent with the industry.

### VENDOR RESPONSE SIGNATURE PAGE

The vendor must submit a completed and signed signature page. By its signature, vendor agrees to be bound by its response and the provisions set forth in this ITN and certifies it is in compliance with requirements set forth in the ITN.

Administrative Documents

\**(optional)*

● Completed and signed ITN Vendor Response Signature Page

● Completed W-9 (Attachment 1)

● Completed Vendor Disclosure Statement (OSC) (Attachment 2)

● Colorado Secretary of State’s certificate of good standing

### VENDOR REQUESTS FOR CONFIDENTIALITY

The State of Colorado is subject to the requirements of §24-72-201, CRS, et seq., Public (Open) Records.

A vendor may submit, as a part of its response, a written request for classification of certain portions of the response as a trade secret or other confidential or proprietary information. Material for which the vendor is requesting confidentiality shall be readily identifiable and separable from other portions of the ITN response to facilitate public inspection of the non-confidential portion of the response. Commingling of confidential and non-confidential information is not acceptable. Neither response price information nor any information that will be included in a resulting contract will be considered confidential.

The vendor must include the rationale for any request to classify portions as a trade secret or confidential or proprietary, including references to the authority that allows for such treatment.

In no event shall an entire response be classified as confidential. The procurement official or his or her designee shall determine if the information identified in the vendor’s request is exempt from disclosure in accordance with section 24-72-204, CRS, and shall inform the vendor in writing of his or her determination. If the vendor does not agree with the determination, the vendor may protest the determination in accordance with article 109 of the code. Reference Procurement Rule R-24-101-401-03.

Any additional vendor information which may be part of the evaluation/negotiation process and for which a vendor claims confidentiality is subject to the same requirements and process identified above.

### RESPONSE SUBMISSION

Vendor shall submit its response to the State Point of Contact (State POC) as identified in the Administrative Information section of this ITN.

*\*(Note: For hard copy responses, consider language below.)*

The State desires and encourages responses are submitted on recycled paper, printed on both sides. While the appearance of responses and professional presentation is important, the use of non-recyclable or non-recycled glossy paper is discouraged.

Responses must be sealed and submitted in an appropriate envelope, package or box. Include the following information on the outside of the envelope and/or package:

* + 1. Vendor’s Name
    2. ITN number and title
    3. Response due date and time

Vendors are required to provide *\*(insert number of hard copies, flash drive with PDF, keyword searchable, USB flash drive, labeling, etc.)*

The State will not accept responses submitted on CDs, DVDs, via facsimile, or via email. Responses that are determined to be at a variance with these requirements may not be accepted.

*\*(Note: For electronic copy responses, consider language below.)*

Responses must be sealed and submitted *\*(insert method used if a lockbox or via the EPS, be specific about what happens if they are unable to submit electronically, will the State accept a hard copy?)*

Vendors are required to provide *\*(indicate format such as PDF, keyword searchable, labeling, etc.)*

The State will not accept responses submitted on CDs, DVDs, via facsimile, or via email. Responses that are determined to be at a variance with these requirements may not be accepted.

\**(Note: Indicate if pricing may be included with the rest of the response or if the vendor must submit price separately. Either approach is allowable.)*

*\*(if separate)* Vendor’s response must segregate pricing and cost information from the other component(s) of the response. Vendor may not incorporate cost or price related information within the vendor response.

Provide:

\*\_\_\_\_\_\_\_\_\_\_\_ (\_\_) hard copy/copies clearly labeled “Pricing” and;

\*\_\_\_\_\_\_\_\_\_\_\_ (\_\_) electronic copy/copies on a flash drive clearly labeled “Pricing”

### PRICING:

Estimated prices in a vendor’s response are not acceptable unless otherwise permitted in the ITN. The State may consider response prices as a vendor’s best and final offer, unless otherwise stated in the ITN or further negotiated. The State will consider price in determining the competitive range and the apparent successful vendor. *\*(if your evaluation process will not consider price in determining the competitive range, you need to be clear about your process in the ITN)*

Vendors are required to provide a firm, fixed price for the goods/services identified in the ITN. The pricing information submitted by the vendor must describe in detail all cost terms that the State may incorporate into any contract awarded under this ITN.

*\*(optional language for detail about pricing)*

* Include a breakdown of pricing by milestone if applicable. Differentiate between deliverables and payment milestones.
* Pricing must include all expenses, materials, and administrative costs.
* Describe the market resources, methodology, and technology used to determine the proposed rates.
* Proposed pricing shall be firm for \*(*initial term, entire term*).
* Price increases \**are/are not* permitted. If permitted, an increase is limited \*(*insert a percentage or index if applicable)* with justification. The State reserves the right to negotiate price increases.

### CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

By its signature on the \*\_\_\_\_\_\_\_\_, the vendor certifies that the prices and other terms in the response have been arrived at independently without any consultation, communication, agreement with, or knowledge of the contents of the response by, any other competing vendors, and in the case of a joint response each party thereto certifies as to its own organization. For purposes of this paragraph, "consultation, communication, agreement with, or knowledge" does not include knowledge of prices or terms gained through availability of established price lists or catalogues made available to the public by the competing vendors. No attempt has been made or will be made by the vendor to induce any other person or firm to submit or not to submit a response for restricting competition. Reference §6-4-101, CRS, et seq., (Colorado Antitrust Act of 1992) as amended.

### MULTIPLE OR ALTERNATE RESPONSES

\**(optional – if you are not going to allow, then change the word “limited” to “allowed”)*

Unless otherwise stated in this ITN, vendors shall not be limited in providing multiple or alternate responses. In the event a vendor provides multiple or alternate responses, each response must be submitted separately and distinctly to permit independent review based on the individual response. Further, any vendor submitting multiple or alternate responses must expressly identify their preferred or primary response.

### MODIFICATIONS TO STATE CONTRACT

The State’s draft contract is included as an attachment to this ITN. Reference \*(*insert attachment # or name of document)*.

If a vendor has any suggested modifications to the contract, the vendor must include and clearly indicate such modifications in its response. Vendors, if you do offer suggested modifications, the decision to reject, accept, or further negotiate requested changes would be at the State’s discretion. If a vendor normally seeks counsel on contract terms, do so before submitting a response to this ITN.

Vendors are discouraged from submitting mandatory deviations from the State’s contract language. In the event such vendor requests violate State law, regulation, or policy, or would otherwise not be justifiable as being in the best interest of the State, the State may make a determination that a response is no longer reasonably susceptible of award and vendor’s response may be eliminated from the evaluation or competitive range.

### CONTRACT PERFORMANCE OUTSIDE COLORADO OR THE UNITED STATES

The vendor, in its response, shall disclose in writing whether it anticipates subcontracting any services under the contract, where such subcontracted services will be performed, including any subcontracts, and whether any services or subcontracted services under the contract or any subcontracts are anticipated to be performed outside the United States or the state of Colorado. The vendor shall include the reason(s) why it is necessary or advantageous to go outside the United States or Colorado to perform the contract or any subcontracts. This is a continuing requirement for the vendors for the duration of the ITN process. A disclosure form is available for vendor completion. Reference “Keep Jobs in Colorado - Vendor Reporting to Governmental Body – Form” at: <https://www.colorado.gov/pacific/osc/procurement-resources>

### VENDOR CAPABILITY AND FINANCIAL INFORMATION

\**(optional)*

Vendor(s), if requested, must be prepared to present evidence of experience, ability, staffing, service facilities, and financial standing necessary to meet the requirements set forth or implied in its ITN response and/or as proposed in clarifications/negotiations.

The State reserves the right to request that vendor(s) provide a copy of its most recent certified and audited financial statements as a method of determining vendor financial responsibility.

The State reserves the right to review such information and financial documentation for all vendors, for vendors in the competitive range, or only for an awarded vendor.

### VENDOR DISCLOSURE REQUIREMENTS

\**(optional – also review Debarment and Suspension below)*

1. Disclose whether the vendor, any general partner or joint venture of the vendor, or any proposed subcontractor has failed to complete a similar project within the past five (5) years. If so, list the date of commencement of the project and the entity for which the project was to be performed, and explain why the project was not completed.
2. For contracts or work in the last seven (7) years, list all existing and potential material lawsuits, legal, administrative or audit proceedings, governmental investigations, criminal actions or law enforcement activities relating to your company any of your affiliates, including any proceedings to which your company, affiliates, or any of respective officers, directors, or employees, is a named party. Include the status and details of any final action or resolution.
3. Describe any insurance claims submissions for errors and omissions, fiduciary liability and/or fidelity bond insurance coverage for the past two years.

### DEBARMENT AND SUSPENSION

\**(optional)*

The vendor shall disclose in its response, to the best of its knowledge and belief whether it, its principals and any proposed subcontractors:

* Are presently debarred, suspended, proposed for disbarment, or declared ineligible;
* Any convictions or civil judgments rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
* Are presently under investigation for, indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in the previous bulleted item; and
* Have within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

Failure of a vendor to disclose any information in this section may result in the State’s determination that the vendor is not reasonably susceptible of award.

### CONFLICTS OF INTEREST/ETHICS

The vendor must disclose in its response any potential or actual conflict of interest in connection with a response to this ITN. A conflict of interest may include, but is not limited to, access to any non-public information by the vendor regarding the ITN or its subject matter, or by any of the vendor’s employees, contractors, or agents, including any individual who may have had access to non-public information in a prior capacity before entering into a relationship with the vendor.

The vendor acknowledges that even the appearance of a conflict of interest may be harmful to the State’s interests. The vendor shall disclose in its response whether there currently are, or potentially could be, the appearance of a conflict of interest regarding this ITN, its response, its staff, any proposed subcontractors or partners, any related business with the State.

Requirements set forth in this section are continuing requirements through the solicitation process and, for the awarded vendor, the contract term, including any extensions. Reference §24-18-201, CRS, et seq. (Proscribed Acts Related to Contracts and Claims); §24-50-507, CRS (Conflict of Interest); §18-8-301, CRS, et seq. (Bribery and Corrupt Influence); §18-8-401, CRS, et seq. (Abuse of Public Office); §6-4-101, CRS, et seq., (Colorado Antitrust Act of 1992); §24-109-105, CRS (Debarment and Suspension); and Procurement Rule R-24-101-107-01 (Ethics).

The State reserves the right to determine a vendor’s responsibility based on factors such as financial, material, personnel resources and expertise; satisfactory record of performance; satisfactory record of integrity; and status of debarment. Reference §24-103-401 CRS.

# EVALUATION AND AWARD

### OVERVIEW

The State will conduct a fair and equitable evaluation of the vendor responses to this ITN. Evaluation and negotiation processes for this ITN shall be conducted in accordance with the State of Colorado Procurement Code and Rules.

It is the vendor’s responsibility to assure all required materials are included with the response. Failure of a vendor to provide required information and/or failure to follow the response format for this ITN may result in reduced scoring and/or exclusion from the competitive range of vendor responses reasonably susceptible of receiving an award.

### EVALUATION FACTORS

The evaluation factors for this ITN are as follows \*(*and are in no particular order)*:

* \*(*insert factors*)
* \*
* \*
* \*
* Price

### NON-NEGOTIABLE ITEMS

Non-negotiable Items are mandatory. The State may not waive or negotiate non-negotiable items. Non-negotiable items are:

* \*(*insert items*)
* \*
* \*
* Special Provisions
* Evaluation factors

All other items in this ITN are negotiable at the State’s discretion. Any negotiated term or provision that would be void under §24-106-109, CRS, or would violate any other state or federal statute or regulation shall not be binding upon the State.

### RESIDENT VENDOR PREFERENCE

A Colorado resident vendor is allowed a preference against a nonresident vendor equal to the preference given or required by the state in which the nonresident vendor is a resident. Reference §24-103-906, CRS.

### SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES (SDVOSB)

The State encourages responses from Service-Disabled Veteran-Owned Small Businesses (SDVOSB) and sets a 3% statewide goal by dollar value of all contracts, to be awarded to SDVOSB. An interested SDVOSB vendor should submit with its response, verification that it is incorporated or organized in Colorado, or maintains a place of business, or has an office in Colorado and is officially registered and verified as a SDVOSB by the U.S. Department of Veterans Affairs. (<https://www.vip.vetbiz.va.gov/>). Vendors who fail to provide SDVOSB documentation in their response, or upon request by the State, cannot be considered for a preference. Reference §24-103-905, CRS.

### EVALUATION PROCESS

An evaluation committee will evaluate responses against all evaluation factors set forth in the ITN. The objective of the evaluation committee is to determine the competitive range.

The State’s initial evaluation will be based on the written responses, so vendors are cautioned to confirm that their response adequately conveys the soundness of their approach and their understanding of the ITN requirements.

* 1. Clarification Discussions

Prior to determining the competitive range, the State, in its discretion, may hold discussions with vendor(s) for the purpose of clarification to assure understanding of the ITN requirements and the vendor’s responses. Vendors shall be accorded fair and equitable treatment.

The State may request that clarifications resulting from discussions be submitted in writing by the vendor(s) to the State. Vendors will be given a reasonable timeframe in which to submit written clarifications and to provide any related revisions to their initial ITN response. Such revisions will be limited to the guidelines included within the State’s requested clarifications. As discussions are in the State’s discretion, vendors should not rely on the opportunity for discussions to clarify their response.

* 1. Determination of the competitive range

A committee will review and evaluate vendor responses against established evaluation factors. The evaluation, including the results of any discussions, will result in determination by the committee of the competitive range.

### NEGOTIATIONS PROCESS

The State shall commence negotiations with those vendors whose responses are determined to be in the competitive range. The State may discontinue negotiations with a vendor if the State determines that the response is no longer reasonably susceptible of award.

The purpose of negotiations is to facilitate a contract that will be most advantageous to the state, taking into consideration price and the other evaluation factors set forth in the ITN.

The State will determine the process for negotiations, including, without limitation: the date, time, and location of the negotiation meetings; the format; which vendor representatives may be present at negotiations, to include a person who is authorized to commit the vendor to any revisions to the vendor’s ITN response; and the agenda and topics to be covered during negotiations.

The State may request that revisions to vendor responses resulting from negotiations be in writing. If so requested, vendors must submit written response revisions to the State by the deadline identified in the State’s request.

### TIMELINESS OF NEGOTIATIONS

Time is of the essence. Failure of a vendor to respond to requests from the State by a deadline established by the State may result in the State making a decision based solely on information previously provided by the vendor.

### PRESENTATION/SITE VISIT

The State reserves the right to invite vendors in the competitive range to make presentations or to make their offices available for a site visit. Such presentations and/or site visits will be at the discretion of the State and at the vendor's expense. The oral presentation may include a demonstration of proposed solution, if available.

### BEST AND FINAL OFFER

The State reserves the right to give vendor(s) in the competitive range an opportunity to submit a best and final offer (BAFO) at any point during the negotiations process.

### AWARD

The award will be made to the responsible vendor whose response is determined in writing to be the most advantageous to the State, considering price, the ITN’s evaluation factors and the result of negotiations.

The State will post a notice of intent to award on the EPS announcing the selected vendor. Following the posting of the notice of intent to award notice, interested parties may contact the State POC to request a review of the ITN file.

Unless expressly stated otherwise, the State reserves the right, in its sole discretion, to award to more than one vendor and/or to separate the goods/services into multiple awards with different vendors if determined to be in the best interest of the State. If multiple awards are made by the State, the same standards for award listed in this section will be applied.

Unless expressly stated otherwise, the State does not guarantee any minimum volume of goods or services to be purchased.

### CONTRACT

A contract must be completed and signed by all parties concerned. In the event the parties are unable to enter into a contract, the State may elect to cancel the notice of intent to award and make the award to the responsible vendor whose response would subsequently have received the award.

The State is not liable for any cost incurred by the awarded vendor(s) prior to issuance of a legally executed contract, purchase order, or other authorized commitment document. No property interest of any nature shall accrue until the awarded contract is approved in accordance with §24-30-202(2), CRS.

### STATE CANCELLATION OF ITN AWARD

The State may cancel an award of a contract under this ITN, in whole or in part, when such action is in the State's best interest. The cancellation of an award does not require cancellation of the ITN.

### STATE OWNERSHIP OF CONTRACT PRODUCTS/SERVICES

All products/services produced and/or provided in response to the contract resulting from this ITN will be the sole property of the State, unless otherwise noted in the ITN or resulting contract.

# VENDOR RESPONSE SIGNATURE PAGE

**INVITATION TO NEGOTIATE**

**\*(insert ITN # and title) (ITN)**

**VENDORS:** See the ITN “ADMINISTRATIVE INFORMATION” section for the ITN response deadline and other response submission information and requirements.

Vendors responding to this ITN must fill out this page in its entirety, sign and return with vendor’s response. This page must bear a physical or electronic signature, as electronic signature is defined in the "Uniform Electronic Transactions Act", section 24-71.3-102 (8), evincing an intent by the vendor to be bound by its response. Failure to do so may disqualify the vendor response.

The undersigned understands and agrees that misrepresentation made in this response and/or subsequent discussions or information presented to the State may be deemed sufficient cause for the refusal by the State to execute a contract as a result, and that that later discovery of any omission or misrepresentation made in the ITN response and/or subsequent discussions or information presented to the State may be grounds for the cancellation of an existing contract.

|  |  |  |
| --- | --- | --- |
| YES | NO | *Indicate if your company is SDVOSB or Resident Bidder below. Include supporting documentation with your response.* |
|  |  | Company is a Service-Disabled Veteran-Owned Small Business. Reference §24-103-905, CRS |
|  |  | Company is a Colorado resident vendor. Reference §24-103-906, CRS |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Legal Company Name |  | | | | | |
| Doing Business As |  | | | | | |
| FEIN |  | | | | | |
| Authorized Signature |  | | | | | |
| Printed Name |  | | | | | |
| Title |  | | | | | |
| Company Address |  | | | | | |
| City: |  | State: | |  | Zip: |  |
| Phone Number: |  |  | |  | | |
| Email address |  | | | | | |
| Contact for Clarifications: |  | | | | | |
| Title |  | |  | | | |
| Phone |  |  | |  | | |
| Email Address |  | | | | | |