



# division of **Purchasing and General Services**

## **Vendor Prerequisites – Agency RFP**

***Note:** Vendors are required to certify that they have read and agree to all of the provisions in this document. Vendors will certify this as an answer to a question within the solicitation.*

***Note:** All solicitations are conducted and governed by Utah Code Annotated (“UCA”) 63G-6a and Administrative Code R33.*

### **Communication, Trade Names, and Product Samples**

Vendors are prohibited from communicating about this solicitation with the conducting procurement unit staff, evaluation committee members, or other associated individuals EXCEPT the State of Utah Division of Purchasing procurement officer overseeing this solicitation.

Wherever in this solicitation an item is defined by using a trade name, brand name, or a manufacturer and/or model number, it is intended that the words, “or equivalent” apply; and invites the submission of equivalent products by the Vendors.

Vendors may be required to submit product samples to assist the chief procurement officer or head of a procurement unit with independent procurement authority in evaluating whether a procurement item meets the specifications and other requirements set forth in the request for responses. Product samples must be furnished free of charge unless otherwise stated in the invitation for responses, and if not destroyed by testing, will upon written request within any deadline stated in the invitation for responses, be returned at the vendor's expense. Samples must be labeled or otherwise identified as specified in the invitation for responses by the procurement unit.

The State reserves the right to conduct discussions with the vendors who submit responses determined to be reasonably susceptible of being selected for award, followed by an opportunity to make best and final offers pursuant to UCA 63G-6a-707.5, but responses may be accepted without discussions.

### **Solicitation Award Not a Contract**

A solicitation award does not constitute a contract. Any award made through U3P, notifications received from U3P, email notifications received directly from the procurement unit, documents received by the vendor, or documents posted in U3P, do not constitute or create a contract. Only a fully executed PO or a fully executed contract constitutes a binding contract.

Between the notification of award and the receipt of a fully executed PO or contract, the procurement unit may cancel the award and/or the solicitation in full, or in part in accordance with UCA 63G-6a-902 and 63G-6a-120.

If awarded, vendor(s) may not begin work, purchase materials, or enter into subcontracts relating to this solicitation until they receive a fully executed PO or contract.

### **Question and Answer Period**

The question and answer period closes on the date and time specified on U3P. All questions must be submitted through U3P during the question and answer period. Answers from the State will be posted on U3P. Questions may include notifying the State of any ambiguity, inconsistency, scope exception, excessively restrictive requirement, or other errors in this solicitation. Exceptions/additions to the standard terms and conditions do not need to be addressed during the question and answer period.

Questions are encouraged and may be answered individually or may be compiled into one document.

Questions may also be answered via an addendum. An answered question or an addendum may modify the specification or requirements of this solicitation. Answered questions and addendums will be posted on U3P. Vendors should periodically check U3P for answered questions and addendums before the closing date. It is the responsibility of the vendors to submit their responses as required by this solicitation, including any requirements contained in an answered question and/or addendum.

**NOTE:** Exceptions taken by a vendor to the scope/content of this solicitation that have not been addressed during the question and answer period will result in the vendor being rejected.

Vendors are encouraged to review this solicitation prior to the deadline to submit a response, even if a response has been submitted, in case an addendum has been issued by the issuing procurement unit.

### **Submitting a Response and Closing Date**

The issuing procurement unit may not accept a response after the time for submission of a response has expired. When submitting a response or modification to a response electronically, vendors must allow sufficient time to complete the online forms and upload their documentation.

It is the vendor's responsibility to ensure that they have completed all requirements, read and reviewed all documents, submitted all required information, uploaded all required forms, and submitted their response prior to the closing time. Even if a vendor completes all sections, but does not submit their response, the State of Utah Division of Purchasing will not be able to receive their response and they will be deemed non-responsive.

### **Price Guarantee Period**

The vendor guarantees its pricing for the time period stated in the solicitation. If allowable under this solicitation, a request for price adjustment must be made at least thirty (30) days prior to the effective date. A request for price adjustment must include sufficient documentation (market analysis) supporting the request. Any price adjustment will not be effective unless approved by the Director of the Division of Purchasing. A price adjustment will be guaranteed for the same length of time as the original price guarantee. The conducting procurement unit will be given the immediate benefit of any decrease in the market, or allowable discount.

### **Protected Information**

Pricing may not be classified as confidential or protected and will be considered public information.

Process for Requesting Non-Disclosure: Any vendor requesting that a record be protected shall include with the bid a Claim of Business Confidentiality. To protect information under a Claim of Business Confidentiality, the vendor must complete the Claim of Business Confidentiality form with the following information:

Provide a written Claim of Business Confidentiality at the time the information (response) is provided to the state, and

- Include a concise statement of reasons supporting the claim of business confidentiality (Subsection UCA 63G-2-309(1)).
- Submit an electronic “redacted” (excluding protected information) copy of the response. Copy must clearly be marked “Redacted Version.”

The Claim of Business Confidentiality form may be accessed in the Files of the solicitation.

An entire bid cannot be identified as “PROTECTED”, “CONFIDENTIAL” or “PROPRIETARY” and shall be considered non-responsive unless the Vendor removes the designation.

Redacted Copy: If a vendor submits a bid that contains information claimed to be business confidential or protected information, the vendor MUST submit two separate responses: one redacted version for public release, with all protected business confidential information either blacked-out or removed, clearly marked as "Redacted Version"; and one non-redacted version for evaluation purposes clearly marked as "Protected Business Confidential."

All materials submitted become the property of the State of Utah. Materials may be evaluated by anyone designated by the State as part of the bid evaluation committee. Materials submitted may be returned only at the State's option.

### **Anti-Boycott Actions**

In accordance with UCA 63G-27 et seq., vendors contracting with the State to provide any good or service, including supplies, information technology, or construction services, must certify that they are

not currently engaged in an “economic boycott” nor a “boycott of the State of Israel” as those terms are defined in 63G-27-102.

Vendors must also agree not to engage in either boycott for the duration of this contract. For example, a vendor may not, without an ordinary business purpose, boycott the State of Israel or boycott companies that (1) engage in activities related to traditional energy, mining, agriculture; (2) engage in the manufacture, distribution, sale, or use of firearms; (3) do not meet environmental standards beyond applicable state and federal laws; or (4) do not facilitate access to abortion or sex characteristic surgeries.

Accordingly, the contractor will be expected to certify in the contract that it is not currently engaged in either an economic boycott or a boycott of the State of Israel, or both. The contractor will also have to certify in the contract that it will not engage in such boycotts during the term of this contract, and that if the contractor does engage in either such boycott, or both, it will promptly notify the State in writing. The contractor is advised to read and understand the provisions of UCA 63G-27 et. seq.

### **Restricted Foreign Entities and Forced Labor**

In accordance with UCA 63G-6a-121, vendors contracting with the State certify that they are not providing a forced labor product, or, if the vendor is providing technology or technology services, networks, or systems, the vendor certifies that the aforementioned does not come from a restricted foreign entity, as defined in [UCA 63G-6a-121](#).

### **Protests**

Protests are governed by UCA 63G-6a Part 16. More information can be found [here](#).

### **Technology**

Pursuant to Utah Administrative Code R33-112-502 the awarded contract(s) may be modified to incorporate new technology or technological upgrades associated with the procurement item being solicited, including new or upgraded: (i) systems; (ii) apparatuses; (iii) modules; (iv) components; and (v) other supplementary items. Further, a maintenance or service agreement associated with the procurement item under the resulting contract(s) may be modified to include any new technology or technological upgrades. Any contract modification incorporating new technology or technological upgrades will be specific to the procurement item being solicited and substantially within the scope of the original procurement or contract.

Any solutions that include cloud services, IaaS, PaaS, SaaS, MaaS, CaaS & XaaS, etc. must be implemented using the existing State of Utah DTS accounts for those hosted services, where possible. DTS has accounts with most major cloud producers (AWS, GCP, Azure, etc.).

It is expected that State of Utah data reside on the DTS-managed accounts for these and all providers. If applicable, please ensure that the solicitation response incorporates the use of these DTS accounts and that the pricing quoted does not include vendor hosting costs as costs would be paid directly to the hosting providers through DTS's existing accounts.

If it is not possible to utilize the DTS cloud services accounts, please provide the reasoning why to the solicitation's Q&A board so as to allow the State to amend this solicitation requirement if appropriate.

If the State of Utah Division of Technology Services is conducting this solicitation then the Division of Technology Services has the authority to allow any and all State of Utah Executive Branch Agencies to participate in any contract resulting from this solicitation in the event a procurement need arises. Allowing additional executive branch agencies to participate in a contract resulting from this solicitation will require a contract amendment and participation will be limited to the procurement items or scope of work identified in this solicitation. All technology contract amendments will be issued in accordance with State of Utah Technology Governance Act UCA 63F-1-205, Utah Procurement Code, and Utah Administrative Code R33-112-502.

Additionally, IT procurements may be subject to third-party review and additional reference checks as a matter of course. All technology procurements for products that process, store, transmit, host, and/or interact with State of Utah data and/or systems are subject to DTS 5000-0002 Enterprise Information Security Policy, shall be required to submit proof of compliance with FedRAMP or GovRAMP at the time of solicitation. Additionally, if the product is enrolled in the Progressing Snapshot Program or relying on a verified GovRAMP status (Core, Ready, Provisionally Authorized, or Authorized), vendor must provision access to Continuous Monitoring to the State of Utah Division of Technology Services within 2 weeks of the Intent to Award being signed.

If a product does not have a FedRAMP or verified GovRAMP status at the time of award, the product must be enrolled in the GovRAMP Progressing Snapshot Program immediately upon contract execution.

If a verified status of Core is required, the status must be achieved no later than 12 months of the resulting contract award. The product may be eligible to remain in this status for the life of the contract, or the product may be required to remain in this status until a verified status of Ready/Authorized (Provisionally Authorized) is achieved.

If a verified status of Ready is required, a provider will be allowed a minimum of 12 months from contract award date to ensure the contracted product has achieved Ready status, not to exceed 18 months.

If a verified status of Authorized is required, a provider will be allowed a minimum of 18 months from contract award date to ensure the contracted product has achieved Authorized status, not to exceed 24 months.

Any additional assessment requirements, such as regulatory compliance including, but not limited to CJIS, HIPAA, <et al>, shall also be determined by State of Utah Division of Technology Services and incorporated into the contract terms.

### **Background Checks**

The State reserves the right to require any vendor (including the vendor's employees, subcontractor, or others associated with the vendor) with access to secure state facilities, sensitive data, or technology to complete a background check.

The State reserves the right to determine what state facilities, sensitive data, or technology applies to the background and disclosure/notification requirements.

### **Interviews and Presentations**

If it is determined to be in the best interest of the Conducting Procurement Unit, interviews and presentations may be held at the option of the State.

### **Mandatory Minimum Requirements**

Vendors should review the scope of work and/or specifications in the files before submitting their responses to the mandatory minimum requirements. The mandatory minimum requirements are the objective criteria in which the conducting procurement unit will evaluate proposals.

All of the items described as mandatory minimums are non-negotiable. However, if a manufacturer's specification is used or identified, then a response must include, in sufficient detail, that its response contains an equivalent brand.

If it is determined that a response does not meet the mandatory minimum requirements, at any time during the solicitation process, it will be deemed non-responsive and disqualified from further consideration.

## **Solicitation Specific Provisions**

### **Technical Requirements**

For ease of evaluation, all RFP responses must provide a point-by-point response, addressing in detail each area of the technical requirements, including addressing how the point-by-point response addresses the issues discussed in this solicitation. The criteria are not intended to limit a response's content or exclude any relevant or essential data. Vendors are at liberty and are encouraged to expand upon the criteria to demonstrate the vendor's capability to provide the State with a solution.

All responses in response to this solicitation will be evaluated in a manner consistent with the Utah Procurement Code, Administrative Rules, policies and the evaluation criteria in this solicitation. The technical requirements are subjective criteria. To determine which proposal provides the best value to the State, the evaluation committee will evaluate each responsive and responsible proposal that has not been disqualified or rejected using the subjective criteria.

The vendor bears sole responsibility for the items included or not included within the response submitted by the vendor. Each area of the evaluation criteria must be addressed in detail in the response.

### **Response Evaluation Process**

#### **Stage 1: Initial Review**

In the initial phase of the evaluation process, the conducting procurement unit will review all responses timely received. Non-responsive responses not conforming to solicitation requirements or unable to meet the mandatory minimum requirements will be eliminated from further consideration.

#### **Stage 2: Technical Response Evaluation**

Responsive responses will then be evaluated by an evaluation committee appointed by the conducting procurement unit against the response evaluation criteria stated in the solicitation.

Vendors that achieve the minimum score threshold identified in the solicitation will proceed to the Final Stage: Cost Response Evaluation. Vendors with a score of less than the minimum required technical points will be deemed non-responsive and ineligible for further consideration. The evaluation score sheet has been attached to this solicitation. The attached evaluation score sheet states the relative weight that will be given to each evaluation criteria.

The evaluation committee, for this solicitation, will tally the final scores for criteria other than cost to arrive at a consensus score by the following method: an average of the individual scores.

#### **Final Stage: Cost Response Evaluation**

Vendors successful in the technical evaluation will advance to the Final Stage: Cost Response Evaluation. The vendor with the lowest total cost will receive 100% of the total cost points. All other vendors will receive a portion of the total cost points based on what percentage higher their total cost is than the total lowest cost. The formula to compute the points is:  $\text{Cost Points} \times (\text{Lowest Proposed Price} / \text{Proposed Price})$ . If the solicitation is a single award, the highest scoring vendor may be awarded. If this solicitation is a

multiple award, the vendors meeting the minimum score threshold identified in the RFP may be awarded.

### **Cost Proposal Evaluated Independently**

Pursuant to UCA 63G-6a-707(7), the cost response will be evaluated independently from the technical response; and as such, must be submitted separately from the technical response. Vendors must not include costs or pricing data in their responses to the mandatory minimum requirements and the technical response. Failure to submit cost or pricing data separately will result in your response being judged as non-responsive and ineligible for contract award. If the cost response is being evaluated as part of the technical criteria it will be state in the solicitation.

### **Standard Terms and Conditions**

Exceptions to the Terms and Conditions are **strongly** discouraged

Any contract resulting from this solicitation will include, but not be limited to the Standard Terms and Conditions. The Standard Terms and Conditions have been attached in the Files section of this solicitation.

Exceptions and/or additions to the Standard Terms and Conditions are **highly** discouraged. However, vendors requesting exceptions and/or additions to the Standard Terms and Conditions must be submitted as an answer to the corresponding question in the Requested Information Section of this solicitation. Exceptions and/or additions submitted after the date and time for receipt of responses will not be considered. Vendors may not submit requests for exceptions and/or additions by reference to a vendor's website or URL. URLs provided with a response may result in that response being rejected as non-responsive. Vendors may submit questions during the Question and Answer period regarding the Standard Terms and Conditions.

The State may refuse to negotiate exceptions and/or additions that are determined to be excessive; that are inconsistent with similar contracts of the procurement unit; to warranties, insurance, or indemnification provisions that are necessary to protect the procurement unit after consultation with the Attorney General's Office or other applicable legal counsel; where the solicitation specifically prohibits exceptions and/or additions; or that are not in the best interest of the procurement unit.

In a multiple award, the State reserves the right to negotiate exceptions and/or additions to terms and conditions in a manner resulting in expeditious resolutions. This process may include beginning negotiations with the Vendor having the least amount of exceptions and/or additions and concluding with the Vendor submitting the greatest number of exceptions and/or additions. Contracts may be executed and become effective as negotiations are completed.

For any proposed change(s), the vendor **MUST** provide the State of Utah's Standard Terms and Conditions for this solicitation in Microsoft Word format with redline edits. Additional terms or documents must be submitted in separate Microsoft Word documents. The vendor must also provide the name, contact information, and access to the person(s) that will be directly involved in legal negotiations.

Any mandatory required acceptance of a vendor's terms and conditions may result in the response being determined to be non-responsive.



An award resulting from this solicitation is subject to successful contract terms and conditions negotiation (if required). The State may reject a response if the vendor who submitted the response fails to sign a contract within 90 days after the contract award.

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