

REGENTS OF THE
UNIVERSITY OF MINNESOTA

Center for Transportation Studies

REQUEST FOR INFORMATION ("RFI") # 1033
FOR

Program Delivery Services, Delivery of Technical Assistance, & Development of Training Materials

Email, mail or deliver one signed response to:

Annette Fritze, Contract Coordinator
Center for Transportation Studies
200 Transportation and Safety Building
511 Washington Ave. S.E.
Minneapolis, MN 55455
fritz283@umn.edu

Clearly label response with respondent name, RFI # and title of the RFI.

Do not submit copies to any other person or location.

Schedule to Submit Responses

The initial submission date for this RFI is:

December 7th, 2015

It is in the best interest of all contractors to submit the required information by the initial submission date in order to be eligible for upcoming contracts.

Additional information responses will be accepted through the final submission date below.

The final submission date for this RFI is:

December 31st, 2018 by 4 p.m.

Contact Information for RFI Inquiries

For Technical Questions:

Ginny Crowson
Phone: (612) 625-8373
Email: crowson@umn.edu
OR
Stephanie Malinoff
Phone: (612) 624-8398
Email: malinoff@umn.edu

Center for Transportation Studies
200 Transportation and Safety Building
511 Washington Ave. S.E.
Minneapolis, MN 55455
Fax: (612) 625-6381

For Administrative Questions:

Annette Fritze, Contract Coordinator
Center for Transportation Studies
200 Transportation and Safety Building
511 Washington Ave. S.E.
Minneapolis, MN 55455
Phone: (612) 626-9587 Fax: (612) 625-6381
Email: frtiz283@umn.edu

NOTE:

- Nothing in this RFI shall be construed to require the University to issue an RFP.
- By submitting an RFI response, respondent acknowledges that:
 - University's RFI is simply a request for information and not a request for proposal
 - University may or may not issue an RFP for the product or service described in this RFI

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1.0 OVERVIEW OF THE RFI PROCESS AND GENERAL INSTRUCTIONS TO RESPONDENTS

Carefully read the information contained in this RFI and submit a complete response to all requirements, specifications, and questions as directed.

1.1 QUESTIONS AND INQUIRIES

Respondents who have questions about the RFI should fax or e-mail such questions to the administrative contact listed on the title page.

Responses to written questions which involve an interpretation or change to this RFI will be issued in writing by addendum and mailed to all parties recorded by the University as having received a copy of the RFI. All such addenda issued by the Center for Transportation Studies prior to the time that responses to RFI are received shall be considered part of the RFI.

Companies receiving this request other than directly from the Center for Transportation Studies are responsible for notifying the administrative contact listed on the title page that they are in receipt of an RFI package and for providing a name, address and e-mail in the event an addendum is issued.

Only additional information provided by formal written addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect.

1.2 TENTATIVE SCHEDULE OF EVENTS

RFI issued.....	December 7th, 2015
Initial Submission Date	December 7th, 2015
Final Submission Date.....	December 31 st , 2018 by 4 p.m.

1.3 ISSUANCE OF RFI

A Request for Information (RFI) is NOT a request for proposal, bid, or quotation. No award will be issued from this RFI. The RFI is intended to gather information regarding the service described in Attachment B. An RFI is for general information purposes only and does not constitute a bid.

1.4 RESPONSE SUBMISSION

1.4.1 NUMBER AND DESCRIPTION OF COPIES

Email, mail or deliver one response to the attention of the administrative contact listed on the title page. All documents should be 8 1/2" x 11". The copies should be prepared in a manner that facilitates easy handling and reading by the review committee.

1.4.2 COMPLETE RESPONSE – ELEMENTS AND ORDER

All Responses must include:

1. Signed cover letter with:
 - a. Name of contact person with phone number and e-mail address
 - b. Either a two- to three-sentence paragraph either describing services for each subsection in Section II. of Attachment B or indication that the subsection is not applicable
2. Table of Contents with page number references
3. Response to Attachment A: Respondent Profile & Executive Summary
4. Response to Attachment B: Details for Information Requested
5. Response to Attachment C: Pricing
6. Response to Attachment D: References
7. Requested changes to Attachment E: University of Minnesota Terms and Conditions for Contracts for Professional Services (CfPS) OR confirmation that no changes will be required

1.4.3 SUBMISSION

The Respondent assumes the risk of the method of dispatch chosen. Postmarking by the Submittal Date and Time shall not substitute for actual response receipt.

1.5 OWNERSHIP OF RESPONSE TO RFI

All materials submitted in response to this request become the property of the University and may become part of any resulting contract.

1.6 RELEASE OF CLAIMS, LIABILITY AND PREPARATION EXPENSES

Under no circumstances shall the University be responsible for any response preparation expenses, submission costs, or any other expenses, costs or damages, of whatever nature incurred as a result of Respondent's participation in this RFI process. Respondent understands and agrees that it submits its response at its own risk and expense and releases the University from any claim for damages or other liability arising out of the RFI process, except to the extent of the University's willful or wanton acts in connection therewith.

1.7 ERRORS IN RESPONSE

The University shall not be liable for any errors in Respondent's response. Respondent is responsible for careful review of its entire response to ensure that all information is correct and complete. Respondents are liable for all errors or omissions contained in their responses.

If respondent may submit a corrected response, however it must be clearly labeled as a correction to an earlier response with respondent's name, RFI number and RFI title. Corrections will be accepted up to the final submission date.

1.8 ADDENDUM

The University reserves the right to issue an addendum to the RFI at any time for any reason.

1.9 RESPONSES SUBJECT TO PUBLIC DISCLOSURE

University considers all information, documentation and other materials (collectively, "Materials" or "Items") submitted in response to this RFI to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure. By submitting a response, Respondent agrees to release the University from any liability resulting from University's disclosure of such information.

If submitting information in response to this RFI that you believe to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota-Statute. Section 13.37 ("MGDPA"), follow these instructions.

- (1) Clearly and conspicuously mark any Materials you believe to contain trade secret information.
- (2) Enclose such Materials in a separate envelope, which, itself, is clearly and conspicuously marked "Confidential."
- (3) Include in the envelope an attorney's opinion for each Item indicating the legal basis for regarding it as trade secret under the MGDPA.

Respondent also agrees to defend any action seeking release of the Materials believed to be trade secret, and indemnify and hold harmless the University, its regents, agents and employees, from any judgments or damages awarded against the University in favor of the party requesting the Materials and any and all costs connected with that defense. Additionally, Respondent understands and agrees that in the event a request is made under the MGDPA, the University will notify Respondent of such request but under no circumstances shall the University be required to commence or defend any action to prevent the disclosure of any Materials, including Materials which the Respondent believes to be trade secret or confidential.

1.10 TESTING AND SAMPLES

The University may request a demonstration of or may request a test of any or all products or services described in the RFI response(s). If not destroyed by testing, and if practical, samples may be returned at the Respondent's request and expense following evaluation or after a contract is awarded. Do not submit unsolicited samples.

1.11 PURPOSE OF REQUEST FOR INFORMATION

The purpose of this RFI is to gather information about the qualifications of contractors who perform the requested professional services; the Center for Transportation Studies may need to purchase these services in the future. Responses are being sought from contractors who can demonstrate the qualifications described in Attachment B.

1.12 WITHDRAWING RFI RESPONSE

Respondents may withdraw their response at any time by submitting a written request to the administrative contact indicated on the Title Page. The written request must be signed by an authorized representative of the Respondent. The Respondent may submit another response at any time prior to the Final Submittal Date and Time.

1.13 RESPONSIBLE RESPONDENTS

The University reserves the right to award contracts only to responsible contractors. Responsible contractors are defined as individuals or companies that demonstrate the financial ability, resources, skills, capability, willingness, and business integrity necessary to perform on the contract. The University's determination of whether a Respondent is a responsible contractor is at the University's sole discretion.

1.14 NOTIFICATION OF AWARD

If the University awards a contract or contracts, as a result of this RFI process, the University will deliver to the selected Respondent a University of Minnesota Contract for Professional Services.

The resulting contract shall consist of:

- (1) the terms, conditions, specifications and requirements of the Contract for Professional Services,
- (2) a detailed work plan, including scope of work, budget, and schedule for the specific project assignment.

2.0 REQUEST SUMMARY

DESCRIPTION OF SERVICES

Please see Attachment B for a detailed description of services.

REQUIRED QUALIFICATIONS

Please see Attachment B for a list of required qualifications.

RESPONDENT PROFILE AND EXECUTIVE SUMMARY

Company Profile – Attach additional pages if necessary.

1. Legal name of the Respondent: _____

2. Address of office which will fulfill this contract: _____

3. Number of years in business related to RFI: _____

4. Type of Operation: Individual: ____ Partnership: ____ Corporation: ____ Government: ____

5. Company-wide Annual Sales Volume: _____

6. Does any current relationship whether a relative, business associate, capital funding agreement or any other such kinship, exist between Respondent and any University employee? Yes No If yes, please explain relationship.

7. Number of employees qualified to perform the services described in this RFI: _____

8. Is Respondent currently for sale or involved in any transaction to expand or to become acquired by another business entity? Yes No

If yes, please explain the impact both in organizational and directional terms.

9. Provide any details of all past or pending litigation or claims filed against Respondent that would affect Respondent's performance under a contract with the University.

10. Is Respondent currently in default on any loan agreement or financing agreement with any bank, financial institute, or other entity? Yes No

If yes, specify date(s), details, circumstances, and prospects for resolution.

11. Are there any circumstances impacting Respondent that could affect Respondent's ability to perform under any award made through RFI process.? Yes No

If yes, please specify.

DETAILS FOR INFORMATION REQUESTED**I. BACKGROUND**

The field of transportation is diverse and complex. It involves all sectors of society, and skills from a variety of disciplines are needed to address its challenges. The Center for Transportation Studies (CTS) addresses these challenges through multidisciplinary research, education, and outreach programs. CTS provides a variety of project and program delivery services to further this work, including: coordination of event and training activities; planning and advisory committee support; coordination of grant proposals; coordination of research administration activities group facilitation; strategic planning and organizational change management; strategic communications; and project management assistance. These services require qualified professionals having a broad set of skills and experience specific to the project and program delivery activities described in this RFI.

This RFI is issued by CTS to solicit interests from contractors that could provide these services in a lead or supporting capacity. The Contractor would work with one of the CTS staff members, who would serve as project manager as well as collaborate with other CTS staff as directed by the project manager.

Note: Responses are accepted from those that offer services in one or more of the subsections, A. through H., referenced in Section II: Description of Services.

II. DESCRIPTION OF SERVICES**A. Coordination of Event and Training Activities**

Provide coordination support for event and training activities (conferences, seminars, training courses, events, campus tours), including but not limited to:

- Support and manage the activities of planning committees
- Provide logistical support, including room reservations, food orders, audio-visual arrangements, and instructor/speaker travel;
- Coordinate presentations and tours;
- Collect participant registrations;
- Assemble participant materials;
- Coordinate the inclusion of marketing materials in publications and on the CTS website;
- Provide on-site staff support
- Perform post-event activities, such as summarizing event evaluations and other follow-up tasks

B. Planning and Advisory Committee Support

Provide administrative support for CTS projects and programs that utilize planning and advisory committees, including but not limited to:

- Maintain committee roster and contact information;
- Schedule meetings;
- Create agendas and meeting minutes;
- Manage committee correspondence;
- Perform follow-up on action items identified by the committees.

C. Coordination of Grant Proposals

Coordinate the preparation of grant proposals including, but not limited to:

- Review and communicate RFP requirements;
- Create and communicate proposal development schedules;

- Create annotated proposal outlines;
- Collect and compile written input;
- Write proposal sections, as appropriate;
- Coordinate reviews and collect comments;
- Assemble proposal documents.

D. Coordination of Research Administration Activities

Coordinate research administration activities, including but not limited to:

- Provide coordination support for the Center's annual Request for Proposals (RFP) and research project selection process;
- Review research work plans and provide coordination support for research contracts;
- Coordinate the inclusion of research information in the Center's research database, publications and on the Center's website;
- Assist with collecting and summarizing data for research performance measures;
- Prepare project and program budgets, track funding allocations, and coordinate internal funding transfers for research projects and programs;
- Track and document match funding for CTS research programs.

E. Group Facilitation

Provide facilitation services including, but not limited to:

- Design facilitation methods that allow for maximum participation and engagement, foster team-building and information sharing, and build group consensus;
- Create facilitation plans and working agendas;
- Lead and facilitate group discussions;
- Document input and findings;
- Conduct follow-up communications with participants, as appropriate;
- Prepare summary reports.

F. Strategic Planning and Organizational Change Management

Lead strategic planning and/or organizational change management activities including, but not limited to:

- Design and facilitate strategic planning and/or organizational change management processes, with outcomes that reflect unique organizational contexts such as leadership, culture, complexity, environment, size, and expertise;
- Design and facilitate activities that may include the following: develop a mission and vision; analyze internal and external environments; assess current practices; conduct a gap analyses; develop goals; identify supporting strategies, tactics, and actions plans; create performance measures; prepare evaluation plans; and establish mechanisms for future improvements;
- Document input and findings;
- Prepare summary reports.

G. Strategic Communications

Provide strategic communications services including, but not limited to:

- Analyze communications needs;
- Define target audiences and existing beliefs/attitudes;
- Design and conduct surveys and/or interviews with representatives from target audiences to determine needs, preferences, and other applicable information;
- Establish communications goals and objectives;
- Shape key messages and communications strategies for each target audience;
- Create implementation plans to execute communications strategies, including evaluation plans, timelines, and roles/responsibilities.

H. Project Management Assistance

Provide project management support including, but not limited to:

- Provide coordination support for project teams;
- Create and monitor project schedules;
- Identify and communicate roles, responsibilities, and deadlines;
- Develop communications and deliverables;
- Monitor project budgets

I. Development and Delivery of Technical Assistance Material

Provide development and delivery of technical assistance material including, but not limited to:

- Translate pertinent published material into a format appropriate to the desired training program (may include course curriculums, participant manuals or handouts, visual aids, training manuals, on-line training classes, and training videos);
- Present material, normally in a classroom or field setting;
- Develop and deliver technical assistance and training materials, training classes, on-line courses, demonstrations, manuals, videos, CDs and informational sessions, to support CTS program directions;
- Provide consultation on the translation of technical information into concise information formats highlighting new technologies and applications; provide program publication writing support.
- Research and write content material – usually technical or policy oriented – to create interesting, readable documents, manuals and/or Web pages.ther vendors/providers such as printers and Web programmers.

III. REQUIRED QUALIFICATIONS

A. Education, Training, and Experience

The response should clearly identify which services the Contractor has interest in performing as listed in Section II., Subsections A. through I.

The response should clearly identify the Contractor’s education, training, and experience in one or more of the services described in Section II., Subsections A. through I. The response should identify the names and titles of the key personnel who would be assigned to carry out the services for any future contract with CTS. Specifically, the response should describe the following for each key person:

- Expertise
- Experience performing similar work or activities described in Section II., Subsections A. through I.
- Potential role in performing one of more of the services described in Section II., Subsections A. through I.

A resume for each key person should be included as an Appendix. Required qualifications include at least 5 years of experience.

B. Project Management

The response should indicate the Contractor’s skills related to managing an assignment or project and completing it on time and within budget. The Contractor’s experience in managing and coordinating projects involving individuals or groups with varying perspectives should be documented.

C. Communication and Interpersonal Skills

The response should describe the Contractor’s skills and experience in conducting effective written and verbal communications and utilizing strong interpersonal skills to accomplish tasks and projects, as the Contractor will need to work closely with academic researchers, practitioners, CTS staff, and other stakeholders.

D. Special Services

The response should provide details regarding any special services, other benefits, or advantages to the University in selecting the Contractor.

PRICING

PRICING FOR SERVICES

All costs must be stated in this section. No unstated costs will be allowed.

State Cost of Service at per hour rate: \$

If multiple employees from a single firm are included in the response, provide the cost of service at per hour rates for each employee.

Please note, rate increases will be evaluated on a case-by-case basis. Additionally, if the rate increase exceeds a reasonable cost of living increase, the University may require withdrawal of the original response and submittal of a revised response with the new pricing structure along with an update on the qualifications including any new skills, accomplishments, goals, and awards.

REFERENCES

Provide a customer reference list of no fewer than three (3) organizations with whom Respondent currently has contracts and/or has previously provided similar goods and/or services within the past five (5) years. Reference list is to include company name, contact person, telephone number and e-mail address, and summary of work performed.

Sample of Current University TERMS AND CONDITIONS for Contracts for Professional Services*

1. **Term of Agreement.** This Agreement is effective on the date indicated on the cover sheet in which these terms and conditions are referenced (“Cover Sheet”) and shall remain in effect until the date indicated on the Cover Sheet, or until all obligations set forth in this Agreement have been satisfactorily fulfilled, or the Agreement has been terminated, whichever occurs first. Contractor shall have a continuing obligation, after said Contract period, to comply with any provision of this Agreement intended for University’s protection or benefit, or that that by its sense and context, is intended to survive the completion, expiration or termination of this Agreement. CONTRACTOR UNDERSTANDS THAT NO WORK SHOULD BEGIN UNDER THIS AGREEMENT UNTIL ALL REQUIRED SIGNATURES ON THIS AGREEMENT HAVE BEEN OBTAINED. ANY WORK PERFORMED BY CONTRACTOR PRIOR TO SUCH TIME SHALL BE CONSIDERED AS HAVING BEEN PERFORMED AT CONTRACTOR’S OWN RISK AND AS A VOLUNTEER.

2. **Scope of Work.** Contractor shall perform all of the services set forth in the Cover Sheet and any exhibits attached thereto (“Scope of Work”). Contractor understands that time is of the essence in this Agreement and agrees to meet all milestones indicated on the Cover Sheet and any exhibits attached thereto.

3. **Consideration and Terms of Payment.** The consideration for all services (and goods if any) performed or supplied by Contractor under this Agreement shall be paid by University as follows:

3.1. **Total Obligation.** University’s total obligation to Contractor under this Agreement, including compensation for goods, services, and reimbursable expenses, shall not exceed the amount indicated on the Cover Sheet without the prior written approval of University.

If expenses are reimbursable, each request for reimbursement must be itemized and accompanied by receipts. Requests for travel and subsistence expenses must be consistent with University’s travel policy, a copy of which may be obtained from University’s Purchasing Services, and clearly indicate prudent use of public funds.

3.2. **Frequency of Invoicing and Terms of Payment.** Contractor shall submit invoices upon completion of the milestones described in Exhibit A, or as may otherwise be provided in Exhibit A. University shall pay such invoices consistent with Section 4.8. (Terms of Payment).

4. **General Terms and Conditions.** The terms and conditions contained in this Agreement shall govern and shall take precedence over any different or additional terms and conditions which Contractor may have included in any documents attached to or accompanying this Agreement. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by both parties. If this Agreement was made pursuant to a Request for Proposal (RFP) or Request for Information (RFI), the following order of precedence shall apply: (1) this Agreement and its Exhibits, (2) University’s RFP or RFI, and (3) Contractor’s Response to University’s RFP or RFI.

4.1. **Choice of Law, Forum Selection, Entire Agreement, and Amendment.** This Agreement shall be construed under Minnesota law (without regard for choice of law considerations) and the policies and procedures of University, as amended from time to time. Any action arising out of this Agreement shall be heard by a state court in Minnesota. For this purpose, Contractor specifically consents to jurisdiction in Minnesota. This Agreement constitutes the entire agreement and understanding of the parties and replaces any prior or contemporaneous agreement, whether written or oral. University shall not be bound by any amendment to this Agreement unless such amendment has been signed by University’s Director of Purchasing Services.

4.2. **Warranty.** Contractor expressly warrants and guarantees that the services performed under this Agreement will be of the highest professional standards and quality. Contractor further represents that all services and goods (if any) provided under this Agreement: (i) are free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) are fit for the particular needs and purposes of University as may be communicated to Contractor; (iv) comply with the highest warranties and representations expressed by Contractor orally or in any written advertisement, correspondence, response to University’s RFP or RFI, or other document provided to or in the possession of University; (v) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (vi) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties is breached, Contractor agrees to correct all defects and nonconformities at Contractor’s sole expense, to be liable for all direct damages suffered by University and any other persons, and to defend, indemnify, and hold harmless University and its regents, faculty members, students, employees, and agents from any claim asserted by any person resulting in whole or in part from such breach. The foregoing warranties and guarantees shall not be deemed waived by reason of the acceptance of the goods or services or payment by University.

* Terms and Conditions may be updated at the University’s discretion, at any time prior to the agreement’s execution.

4.3. Inspections and Improper Delivery. University shall have a reasonable time (but not less than thirty [30] days) after receipt to inspect and test any goods or services provided under this Agreement and reject any or all items that are, in University's sole judgment, nonconforming or defective. Goods or services rejected or supplies in excess of quantities ordered may be returned to Contractor at Contractor's expense. University also reserves the right to refuse any goods or services and to cancel all or any part of this Agreement if Contractor fails to deliver all or any part of the goods or services in accordance with the terms and conditions of this Agreement. Failure by University to inspect and test the goods or services shall not relieve Contractor of such responsibility. Any acceptance by University shall not be deemed a waiver or settlement of any defect or nonconformity in such goods or services. If University elects to accept nonconforming or defective goods or services, University, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate University for the nonconformity or defect.

4.4. Assignment. Contractor may not assign any obligations of this Agreement without the prior written consent of University. In the event of any assignment, Contractor shall remain responsible for its performance and that of any assignee under this Agreement. This Agreement shall be binding upon Contractor, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Agreement shall be void. Notwithstanding any notice of assignment, University's tender of payment to Contractor named herein, or to any person reasonably believed by University to be entitled to payment, shall satisfy University's obligation to pay, and in no event shall University be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

4.5. Taxes. University is exempt from paying Minnesota sales and use taxes on certain purchases, as provided in Minnesota Statute, Section 297A.70 Subd 2(a). Contractor shall not charge University for such sales and use taxes. Alternatively, Contractor shall be responsible for the payment of any and all sales taxes to the Minnesota Department of Revenue relating to the following taxable items sold pursuant to this Agreement; construction materials, leasing of motor vehicles, food and lodging, [See Minnesota Statute 297A.70 Subd 2(b)]. Contractor shall promptly reimburse University for any and all such sales and use taxes paid by University to any governmental authority on behalf of Contractor including penalties and interest with respect thereto, and including any and all expenses (including attorneys' fees) or damages that result from a failure by Contractor to properly remit or reimburse University for any and all such sales and use taxes provided above.

University may be obligated by state and federal law to withhold state and federal taxes from the consideration stated in paragraph 3. These taxes may consist of, but are not limited to, the Minnesota state entertainer tax, Minnesota state nonresident withholding tax, federal withholding on payments to foreign nonresident aliens, and federal backup withholding. See Section 4.25 regarding Contractor's obligation to provide a valid TIN and certification as to whether federal backup withholding applies.

4.6. Risk of Loss. With respect to any goods provided under this Agreement, risk of loss shall not pass to University until such goods have been actually received and accepted by University, pursuant to Section 4.3 ("Inspections and Improper Delivery"), at the destination specified by University. Contractor assumes full responsibility for packing, crating, marking, transporting and liability for loss or damage in transit, notwithstanding any agreement by University to pay freight, express, or other transportation charges.

4.7. Use of University Name or Logo. Contractor agrees not to use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with University or the name of any representative of University in any sales promotion work or advertising, or any form of publicity, without the written permission of University's Purchasing Services in each instance.

4.8. Terms of Payment. Subject to the conditions below, payment shall be made by University within thirty (30) days upon Contractor's presentation of an invoice for goods delivered or services rendered pursuant to this Agreement. In the case of goods, however, payment shall not be due prior to thirty (30) days from the date the invoice is received by University at the address indicated in Section 4.24 or from the date the goods are delivered to the destination specified herein, whichever is later. University may withhold payment in whole or in part for goods or services found by University to be defective, untimely, unsatisfactory, or otherwise not conforming to this Agreement, or not in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations.

4.9. Termination. University may terminate this Agreement in whole or in part for its sole *Convenience*. Upon notice of such termination, Contractor shall immediately stop all work including shipment of goods under this Agreement and cause its suppliers and/or subcontractors to cease their work for this Agreement. In the event of such termination, Contractor shall be entitled to payment, calculated on a pro rata or other equitable basis, determined by University in its sole discretion, for work or services satisfactorily performed. In no event shall Contractor be paid for work performed or costs incurred after receipt of notice of termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided.

University may terminate this Agreement in whole or in part for *Cause* upon seven (7) days written notice if Contractor fails to comply with any material term or condition of this Agreement, becomes insolvent or files for bankruptcy protection, or fails to comply in a material way with the requirements of this Agreement. Late delivery of goods or services, or delivery of goods or services that are defective or do not conform to the Agreement shall, without limitation, be causes allowing University to terminate for cause. In this event, University will not be liable for any amounts; but Contractor shall be liable to University for all losses, damages, and expenses. including, without limitation, the excess cost of recouping similar goods or services; shipping charges for any items University may at its option return to Contractor, including items already delivered, but for which University no longer has any use because of Contractor's default; and amounts paid by University for any items University has received but returns to Contractor. If a determination is made that University improperly terminated this Agreement for Cause, then such termination shall be deemed to have been for University's Convenience.

4.10 Independent Contractor. CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE OF UNIVERSITY. NEITHER CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF UNIVERSITY. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, INCLUDING ALL FEDERAL AND STATE INCOME TAX ON ANY MONIES PAID PURSUANT TO THIS AGREEMENT. CONTRACTOR ACKNOWLEDGES THAT CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO TAX WITHHOLDING, WORKER'S COMPENSATION, UNEMPLOYMENT COMPENSATION, OR ANY EMPLOYEE BENEFITS, STATUTORY OR OTHERWISE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND UNIVERSITY TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF CONTRACTOR, ITS EMPLOYEES, AND AGENTS.

4.11. Non-Waiver. No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

4.12. Audit and Retention of Books and Records. University shall have the right to inspect and copy such books, records, and documents (in whatever medium they exist) as well as all accounting procedures and practices of Contractor, its agents, and subcontractors to verify Contractor's performance and all expenses submitted pursuant to the terms of this Agreement. Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. All such items shall be retained by Contractor during the term of this Agreement and for a period of three (3) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Agreement shall be retained by Contractor, its agents and subcontractors, if any, until the claim has been resolved.

4.13. Limitation on University Liability. IN NO EVENT SHALL UNIVERSITY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, LOST PROFITS OR LIKE EXPECTANCY DAMAGES ARISING OUT OF THE AGREEMENT. UNIVERSITY'S MAXIMUM OBLIGATION UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT SET FORTH IN SECTION 3.1.

4.14. Changes. University may at any time by a written notice change the drawings, designs, specifications, materials, packaging, and the time and place of delivery and/or completion of the goods and services to be provided under this Agreement. Promptly upon receipt of the details of any such change. Contractor shall either advise that the change will not affect its costs, or furnish: (i) a breakdown of estimated cost and changes in the compensation attributable thereto, and (ii) a statement of any necessary changes in the time of completion. Contractor's failure to advise University in writing within ten (10) days of the effect of any change hereunder shall constitute Contractor's consent to conform to the change without increase in the amount to be paid by University or the time of completion or without change to other terms and conditions of this contract.

4.15. University Information. Contractor agrees that any information it receives during the course of its performance, which concerns the personal, financial, or other affairs of University, its regents, officers, employees or students shall be kept confidential and in conformance with all state and federal laws relating to data privacy, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13.

4.16. Ownership of Works and Intellectual Property Rights. The term "Works" includes creative writings, research data and reports, writings, sound recordings, pictorial reproductions, drawings, film and video recordings, and other graphical representations, software, business methods, inventions, improvements, and discoveries, and works of any similar nature (whether or not eligible for copyright, trademark, patent or other proprietary rights), which are to be prepared for University and delivered under this Agreement. Ownership of the Works and all copyrights, trademarks, patents and other proprietary rights in the Works shall be owned exclusively by University. Contractor agrees that all copyrightable Works shall be considered a "work made for hire" and that University is the author of and owns all rights in and to the Works, and agrees that if the Works may not be considered a work made

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for hire under 17 U.S.C., Sections 101 and 201(b), Contractor shall without further compensation, assign all rights Contractor may have in the Works to University. Contractor waives any and all statutory moral rights in the Works which Contractor may have arising under 17 U.S.C. 1006(a), as well as any rights arising under any other federal, state, or foreign law that conveys any other type of moral right. Contractor shall, without further compensation, disclose information to University and execute such documents as may be reasonably necessary to assist University in securing and enforcing rights in the Works and related proprietary rights.

4.17. Insurance. Unless more specific insurance provisions are attached, the following shall apply. At all times during its performance under this Agreement, Contractor shall obtain and keep in force comprehensive general and professional liability insurance, including coverage for death, bodily or personal injury, property damage, including liability and automobile coverages, with limits of not less than \$1,000,000 each claim and \$1,000,000 each occurrence. All such certificates evidencing such insurance shall name the Regents of University as an additional insured. Contractor represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance for worker's compensation and the liability insurance, upon request. Contractor shall provide all such certificates to University prior to commencement of services or delivery of goods and shall reference the Contract for Professional Services Number listed on the front of this Agreement when providing such certificates.

4.18. Indemnification. Contractor agrees to release, defend, indemnify, and hold harmless University, its regents, faculty members, students, employees, and agents from all liability, injuries, claims, damages (including claims of bodily injury, property damage, or negligence), or loss, including costs, expenses, and attorneys' fees, which arise in connection with, in relation to, or as a result of Contractor's negligent acts or omissions or in connection with Contractor's breach of warranties under Section 4.2. The foregoing agreement to release, defend, indemnify and hold harmless shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of University.

4.19. Anti-Kickback Enforcement Act of 1986. This Agreement is subject to the provision of the Anti-Kickback Enforcement Act of 1986, Public Law 99-634 (41 U.S.C. 51-58). By accepting this Agreement, Contractor: (i) certifies that it has not paid kickbacks directly or indirectly to any University employee for the purpose of obtaining this or any other University Agreement; (ii) agrees to cooperate fully with any investigation involving a possible violation of the Act; and (iii) agrees to report any suspected violations of the Act to University's Director of Audits at (612) 625-1368. Contractor certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation of Minnesota Statute, Section 15.43.

4.20. Affirmative Action, Equal Employment Opportunity, and Targeted Group Business. University of Minnesota is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Contractor must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor will maintain non-segregated facilities for their employees and not allow their employees to perform services at any segregated facilities under its control. Contractor shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. Additionally, this Agreement is subject to the requirements of and Contractor agrees to comply with (i) Executive Orders 11246 and 11375 and the rules and regulations of the Secretary of Labor (41 CFR Chapter 60) in promoting Equal Employment Opportunities; (ii) Public Laws 92-540 and 93-508, Executive Order 11701, and the regulations of the Secretary of Labor (41 CFR Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans; (iii) Section 503 of the Rehabilitation Act of 1973, Public Laws 93-112 and 93-516, Executive Order 11758 and the regulations of the Secretary of Labor (41 CFR Part 60-47 1) in promoting affirmative action in Employment of the Handicapped; (iv) Public Law 95-507 in promoting the policy that small business concerns owned and controlled by socially and economically disadvantaged shall have maximum practicable opportunity to participate in University's Bidding process; and (v) Minnesota Statutes, Chapter 363 in promoting the equal rights and non-discrimination of persons based on race, color, creed, religion, sex, age, marital status, disability, public assistance status, veteran status or sexual orientation. University's Targeted Group Business Policy and Affirmative Action Policy are incorporated into this Agreement by reference and Contractor agrees to comply with such policies. If applicable, Contractor certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Agreement, Contractor certifies that it complies with all applicable federal and state laws as well as University policies related to non-discrimination, equal employment opportunity, and affirmative action.

4.21. Compliance with Laws and Debarment Contractor certifies that all goods or services furnished under this Agreement shall comply with all applicable federal, state, and local laws and regulations, as well as University and Regents policies and procedures, regardless of whether such laws and regulations are specifically set forth in this Agreement. Contractor certifies that no chlorofluorocarbon (CFC) processed products will be used in fulfilling this Agreement or in the packaging connected therewith, all as defined in Minn. Statute, Section 116.70. Contractor represents that it is not currently debarred or suspended by any federal agency from doing business with the federal government. Contractor shall notify University if it becomes debarred or suspended during the term of this Agreement. University may immediately terminate this Agreement in the event of such termination or suspension and

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Contractor shall be responsible for any costs incurred by University in connection therewith. If Contractor has been notified by University that the goods or services provided hereunder are being procured with federal funds, the federal requirements set forth in Exhibit B shall be incorporated into this Agreement and Contractor shall adhere to such additional requirements. If federal contract funds are not being used, Contractor will not receive Exhibit B.

4.22. Anti-Trust Violations. Contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the buyer. Therefore, Contractor hereby assigns to University, as the buyer of goods and services under this Agreement, any and all claims for such overcharges as to goods and services purchased in connection with this Agreement.

4.23. Rights of the Federal Government to Inventions Made Under a Contract or Agreement. To the extent this Agreement involves the performance of experimental, developmental, or research work, the rights of the Federal Government and University to any resulting inventions shall be determined in accordance with 37 CFR part 401, "*Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,*" and any implementing regulations issued by the awarding agency.

4.24. Notices/Administration. Except as otherwise provided in this Agreement, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth in the Cover Sheet or to such other address as such party may designate by notice given pursuant to this section.

4.25. Acknowledgement. In signing, Contractor certifies under penalties of perjury (see Section 6109 of the IRS Code for further penalties) that: (1) the taxpayer ID number (TIN) provided to University is correct; (2) it is not subject to backup withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; (3) it is a U.S. person (including a U.S. resident alien); and (4) it has full authority to execute this Agreement and perform its obligation under this Agreement. Contractor must cross out and initial item (2) and notify University in writing at Purchasing Services, 1300 South Second Street, Suite 560, Minneapolis, MN 55454-1082, if Contractor has been notified by the IRS that it is currently subject to backup withholding because of under reporting interest or dividends on its tax return. Contractor must cross out item (3) above if it is not a U.S. person for tax purposes or U.S. resident alien.

Notwithstanding this certification, Contractor hereby acknowledges that University has the right to withhold amounts for federal backup withholding if such withholding is required by written notice from the Internal Revenue Service issued subsequent to the date this agreement is executed.

4.26. University Contract Number. Contractor agrees to place University Contract Number indicated at the top of this document on any packages, invoices, packing slips, notices and correspondence related to this Agreement.

4.27. Return of Data. Within fifteen (15) days of the completion or earlier termination of this Agreement, or upon earlier request of University, Contractor shall return all documents, data and other information provided by University to Contractor, or Contractor's employees or agents in connection with this Agreement. Additionally, Contractor, upon the request of University, shall destroy all copies of such University provided data, documents, or information in Contractor's possession or control, and provide University with proof of such destruction.

4.28. "Most Favored Customer" Provision. If Contractor has negotiated terms or conditions for the sale of goods or services to another client of Contractor which University deems more favorable than those contained herein, University may request and shall be afforded the opportunity to purchase those goods or services on the same terms and conditions as Contractor has negotiated to provide a third party under reasonably similar circumstances.

4.29. Cash Discount Period. The cash discount or other similar prompt payment discount period available to University shall commence on the later of: (i) University's receipt of all goods and services under this Agreement, or (ii) University's receipt of Contractor's invoice.

4.30. Fund Availability; Federal Funds Contingency. Financial obligations of University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Agreement is funded in whole or in part with federal funds, University's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes hereof.

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4.31. Severability. If any provision of this Agreement shall be invalid or unenforceable with respect to any party, the remainder of the Agreement, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and each provision of the remainder of the Agreement shall be valid and be enforceable to the fullest extent permitted by law.

4.32. Survivability. The terms, provisions, representations, and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by any of the parties hereunder shall so survive the completion of performance and termination of this Agreement, including the making of any and all payments hereunder.

4.33. Gramm-Leach-Bliley Security Compliance. This Contract for Professional Services is subject to, and Contractor agrees to comply with, the provisions of the Gramm-Leach-Bliley Act. Throughout the term of this Contract for Professional Services, Contractor shall implement and maintain 'appropriate safeguards,' as that term is used in §314.4(d) of the FTC Safeguard Rule, 16 C.F.R. § 314 (the 'FTC Rule'), for all 'customer information,' as that term is defined in §314.2(b) of the FTC Safeguard Rule, owned by University and delivered to Contractor pursuant to this Contract for Professional Services. Contractor shall assist and cooperate in University's efforts to ensure and confirm Contractor's compliance with the terms of this section, including, without limitation: (i) permitting employees or representatives of University to inspect on Contractor's premises Contractor's business records, procedures, rules and practices pertinent to the aforementioned 'safeguards'; and (ii) making available to such employees or representatives of University employees or representatives of Contractor's who have authority to maintain or are knowledgeable of such 'safeguards'. Contractors shall promptly notify University in writing, of each instance of: (i) unauthorized access to or user of that customer information that could result in substantial harm or inconvenience to a customer of University, or (ii) unauthorized disclosure, misuse, alteration, destruction or other compromise of that customer information. Within thirty (30) days of the termination or expiration of this Contract for Professional Services, Contractor shall destroy and shall cause each of its agents to destroy all records, electronic or otherwise, in its or its agent's possession that contain such customer information and shall deliver to University a written certification of the destruction. Contractor shall indemnify and defend and hold University and its regents, employees, agents and contractors harmless from any and all claims, demands, suits, actions, liabilities and expenses (including reasonable attorneys' and investigative fees) arising out of an act or omission by Contractor or its agents and contractors that results in: (i) a person having access to or use of customer information in violation of law or this Contract for Professional Services; or (ii) the misuse, alteration, destruction or material alteration of customer information in violation of law or this Contract for Professional Services. Contractor shall reimburse University for its direct damages (e.g., costs to reconstruct lost or altered information) arising out of an act or omission by Contractor or its agents and contractors that results in: (i) a person having access to or use of customer information in violation of law or this Contract for Professional Services, or (ii) the misuse, alteration, destruction or material alteration of customer information in violation of law or this Contract for Professional Services.