

Highway Helper Services RFP
Purchasing Bid Proposal 12359

Vendor Questions:

- 54. Do you have to be a certified Iowa vendor to bid this RFP? If so how do I do this? Is there a form to be filled out?**

Response:

Prior to entering into a contract with the Iowa Department of Transportation, the Vendor must be registered with the Iowa Division of Labor.

- 55. An important element of the decision from our side has to do with the question we asked during the pre-bid "Can we bid all three projects together as an option to build synergies between the three sites?"**

Response:

The Iowa DOT has reconsidered and will allow the option of a single Vendor to bid on Highway Helper Services for all three Service Areas as tied projects. An addendum will be issued documenting this change.

- 56. Bid Bonds: I need to know if the bid bonds can be done annually. Surety companies prefer to bond on an annual basis; or does the bond need to be for the entire 3 yrs at one time? (Example: April 1, 2015 to March 31, 2016 and then continuation each year from there) The experience I have is the contracts change amounts and Surety companies like to charge based on the contract amount and not the bond percentage itself.**

Response:

The bid bond is to be for the term of the entire original contract for the amount of the entire contract.

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- 57. Will Tablets qualify for the laptop computer within the RFP? It seems the requirements of the laptop is very capable by a tablet except 'windows based'.**

Response:

The web-based application being developed for the Highway Helper service will operate more effectively using a combination of touch screen and keyboard entries.

- 58. Does the proposed vendor have to be a registered vendor with the Iowa DOT/State of Iowa before submitting?**

Response:

Prior to entering into a contract with the Iowa Department of Transportation, the Vendor must be registered with the Iowa Division of Labor.

- 59. I have a question in the RFP. Who would we make the checks payable to (the \$500,000)?**

Response:

Please make the check(s) payable to the Iowa Department of Transportation.

- 60. We were wanting to verify the bid security and performance bond requirements for only the Council Bluffs area. Are we correct in thinking that it would be \$100,000 and \$50,000?**

Response:

Yes.

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- 61. If the three contracts are awarded to more than one company, how will the documentation such as SOPs, Requirements Documents, Performance Measurement Plan, Management Plans, Highway Helper Training Plan, etc., be handled?**

Response:

Each Vendor will be required to develop the appropriate plans and documents required in the RFP. The Iowa DOT Highway Helper Contract Manager will be responsible to make sure the necessary coordination occurs to assure consistency in program service delivery.

- 62. In reference to Section 3.4.4.1, Radios:**
- How many frequencies are we required to obtain licensing and what are the frequencies?**
 - Are any of the frequencies pre-existing? If so, who are the license holders?**
 - Has permission from the local emergency services and the State Patrol been granted to broadcast on their frequencies?**

Response:

The required frequencies are pre-existing and Iowa DOT is the license holder. The DOT will provide the frequency keys to the Vendor and also provide assistance in programming the radios.

The DOT has agreements with the Iowa State Patrol and local law enforcement agencies for radio communications. The Vendor communications with these agencies will fall under those agreements.

- 63. In reference to Sections 3.1.3.2, Crashes with Injuries (No Hazardous Materials Present) and 3.1.3.3, Crashes with Injuries (Hazardous Materials Present):**
- Pursuant to Iowa Tort Claims Act (Chapter 669), “the State will defend, indemnify, and hold an agent of the state harmless against any and all torts claim, but will not cover willful or wanton acts, omission or malfeasance”, will the Iowa DOT consider adding a provision to defend, indemnify, and hold Vendor harmless for any and all claims for personal injury or death suffered by a third party pursuant to any emergency assistance or any**

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absence of emergency assistance provided by Vendor's Highway Helper pursuant to but not willful or wanton act(s), omission, or malfeasance by Vendor's Highway Helper?

Response:

The Vendor is an independent contractor and not an agent of the state. The vendor, therefore, is not, by definition, an "employee" of the state of Iowa. The State's obligations to defend and indemnify under Iowa Code Chapter 669 extend only to its employees. Under Iowa Code section 669.2(4)(a), which defines "Employee of the state" for purposes of the Iowa Tort Claims Act (Iowa Code Chapter 669), "a contractor doing business with the state" is specifically excluded from the definition of "employee." Therefore, the State (DOT) cannot be defending, indemnifying or otherwise holding harmless third parties (such as the Vendor).

The DOT is also barred from doing so under Article VII, Section 1, of Iowa's Constitution which provides, in relevant part: "[T]he State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State." Therefore, the proposal to make DOT hold the Vendor harmless is an absolute non-starter.

64. In reference to Section 3.4.2.12, we are finding that the standard width of a utility body is 78 inches and the RFP requests a 79 inch width. Will the DOT accept a utility body with a 78 inch width?

Response:

Yes.

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- 65. In reference to Section 4.2.8, Financial Information (Ten (10) Page Maximum), if the audited financial statements are greater than ten (10) pages, could they be provided as attachments and excluded from the page count?**

Response:

If the audited financial statement exceed ten pages in length, the Vendor's proposal may exceed the page limit by the number of pages the financial statement exceeds ten pages.

- 66. In reference to Sections 4.2.9, Suspensions and Debarment, and 4.2.13, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions, these sections seem identical. Will the submission of Attachment D be sufficient for both sections?**

Response:

Yes.

- 67. In reference to Sections 3.4.1.6, Sponsorships, we would like to modify this section to require the Vendors written approval prior to modifying the vehicle markings?**

Response:

The request to modify Section 3.4.1.6 of the RFP is denied.

The Highway Helper vehicle markings are at the discretion and approval of the Iowa DOT. The Vendor has no authority in the determination of the vehicle markings. Section 3.4.1.6 requires the DOT assume financial responsibility for any change in the vehicle markings.

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68. In reference to Sections 6.3, Termination Due to Lack of Funds or Change in Law, we would like to add the following sentence to this section. “The Agency shall pay Vendor for all work performed by Vendor up to the date of termination.”

Response:

The request to modify Section 6.3 of the RFP is denied.

Sections 3.8, Measurement and Payment, and 6.15, Payment, of the RFP provide the requirements and details for the DOT to pay for work completed.

69. In reference to Sections 6.14, Indemnification By Vendor, we would like to:
- Remove the requirement for the Vendor to defend the Iowa DOT.
 - Remove the requirement for to hold the DOT harmless from any and all demands.
 - Limit the responsibility to hold the DOT harmless from direct damages instead of all damages and reasonable costs instead of costs.
 - Limit the responsibility to
 - Remove the “without limitation” phrase from the requirements

Response:

The request to modify Section 6.14 of the RFP is denied.

The requirement of Section 6.14 are consistent with and dovetails with the requirements imposed upon the Vendor to have liability insurance as required in Section 6.10.1. Under section 6.10.1, the Vendor is to include the “Contracting Authority” (DOT) as an insured party on its liability policy, or else a separate owner’s protective policy is to be procured in DOT’s favor (normally, most vendors add DOT as an additional insured on their existing policy). This establishes a responsibility not only to indemnify and hold harmless DOT, but also to defend it.

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70. In reference to Sections 6.10, Vendor's Insurance Requirements, we propose deleting the second paragraph of Section 6.10.1 and add the following in lieu of: "Further, vendor shall require subcontractors to comply with the terms and conditions of this procurement, including the insurance terms, set forth herein."

Response:

The request to modify Section 6.10 of the RFP is denied.

The DOT holds the prime Vendor responsible (as the contract holder) to assure all requirements of the RFP are met and the appropriate protections for DOT are provided.

71. Can we setup the bond to renew annually or does it have to run the entire 3 year contract? If the contract or scope changes it would be more beneficial to be annually so it can be updated. They would renew automatically but the rates are based on the contract amounts which may vary.

Response:

The bond would cover both the duration and the amount of the original three year contract.

72. Does the quantity of 480 hours for Highway Helper Operator Trainee represents a yearly allowance or a 3 year allowance. Our confusion stems from the fact that the Highway Helper Operations line gives us a quantity of 17,550 Vehicle Hours, which is a one year allowance, but both the Highway Helper Management and Highway Helper Fixed Costs lines want a unit cost calculated over 36 months (3 years).

Response:

The 480 hours listed in the quantities for the "Highway Helper Operator Trainee" bid item in the Cost Proposal is an arbitrary quantity for the bidder to use in conjunction with the unit rate they bid for this item. The actual quantity paid will be the actual hours of HH trainee used on the project.

The quantity for the Highway Helper Operations bid item will be changed to reflect the typical three-year quantity. This change will be by addendum to the RFP.