

State of Nebraska - INVITATION TO BID CONTRACT

Date	6/15/23	Page	1 of 2
Solicitation Number	6791 OF		
Opening Date and Time	07-10-23	2:00 pm	
Buyer	BRENDA SENSIBAUGH (AS)		

DESTINATION OF GOODS
MULTIPLE DELIVERY LOCATIONS
PLEASE REFER TO DOCUMENTATION
FOR DELIVERY ADDRESSES.

Per Nebraska's Transparency in Government Procurement Act, DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

____ NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this ITB.

____ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

Contract to supply and deliver TEMPORARY SIGN STANDS to the State of Nebraska as per the attached specifications for a One (1) year period from date of award. The contract may be renewed for Four (4) additional One (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

(BT 05/25/23)

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	WAREHOUSE- TEMP. SIGN STANDS 5001 S 14TH ST, LINCOLN	200.0000	EA	_____	_____
2	D1- TEMP. SIGN STANDS 302 SUPERIOR ST, LINCOLN	75.0000	EA	_____	_____
3	D2- TEMP. SIGN STANDS	50.0000	EA	_____	_____

BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: _____ % _____ DAYS

By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within _____ days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign

Here _____
 (Authorized Signature Mandatory – Form must be signed manually in ink or by DocuSign)

Enter Contact Information Below

VENDOR# _____
VENDOR: _____
Address: _____

Contact _____
Telephone _____
Email _____

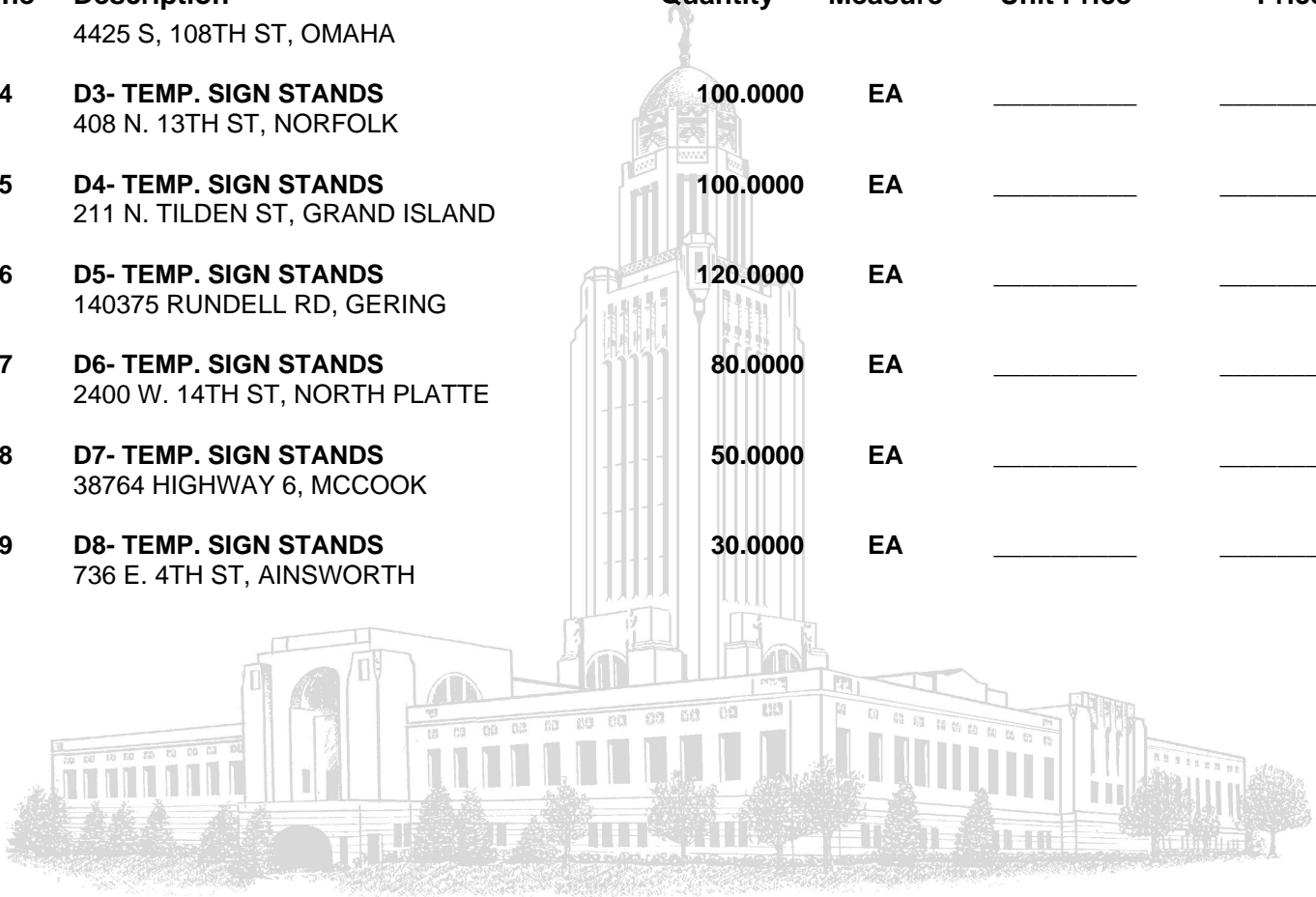
State of Nebraska - INVITATION TO BID CONTRACT

Date	6/15/23	Page	2 of 2
Solicitation Number	6791 OF		
Opening Date and Time	07/10/23	2:00 pm	
Buyer	BRENDA SENSIBAUGH (AS)		

DESTINATION OF GOODS
 MULTIPLE DELIVERY LOCATIONS
 PLEASE REFER TO DOCUMENTATION
 FOR DELIVERY ADDRESSES.

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
	4425 S, 108TH ST, OMAHA				
4	D3- TEMP. SIGN STANDS 408 N. 13TH ST, NORFOLK	100.0000	EA	_____	_____
5	D4- TEMP. SIGN STANDS 211 N. TILDEN ST, GRAND ISLAND	100.0000	EA	_____	_____
6	D5- TEMP. SIGN STANDS 140375 RUNDELL RD, GERING	120.0000	EA	_____	_____
7	D6- TEMP. SIGN STANDS 2400 W. 14TH ST, NORTH PLATTE	80.0000	EA	_____	_____
8	D7- TEMP. SIGN STANDS 38764 HIGHWAY 6, MCCOOK	50.0000	EA	_____	_____
9	D8- TEMP. SIGN STANDS 736 E. 4TH ST, AINSWORTH	30.0000	EA	_____	_____



TEMPORARY SIGN STANDS
STATE OF NEBRASKA/NEBRASKA DEPARTMENT OF TRANSPORTATION
INVITATION TO BID
6791 OF

The State of Nebraska (State), Department of Administrative Services (DAS), Materiel Division, State Purchasing Bureau (SPB), is issuing this solicitation for a commodity contract, ITB Number 6791 OF for the purpose of selecting a qualified Bidder to provide **Temporary Sign Stands**. A more detailed description can be found in Sections II through VI. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar goods from other sources now or in the future.

The term of the contract will be One (1) year commencing upon execution of the contract by the State and the Bidder (Parties) and includes the option to renew for Four (4) additional One (1) year periods upon mutual agreement of the Parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Parties.

INFORMATION PERTINENT TO THIS SOLICITATION CAN BE FOUND ON THE INTERNET AT:

<https://das.nebraska.gov/materiel/bidopps.html>

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. § 84-602.02, State contracts in effect as of January 1, 2014, and contracts entered into thereafter, must be posted to a public website. The resulting contract, the solicitation, and the successful Bidder's bid or response will be posted to a public website managed by DAS, which can be found at:

<https://statecontracts.nebraska.gov>

In addition, and in furtherance of the State's public records statute (Neb. Rev. Stat. § 84-712 et seq.) all bids, or responses received regarding this ITB will be posted to the SPB website.

These postings will include the entire bid or response. Bidder must request that proprietary information be excluded from the posting. The Bidder must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously using an indelible method with the words "PROPRIETARY INFORMATION". The Bidder must submit a **detailed written document showing** that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient (See Attorney General Opinion No. 92068, April 27, 1992). **THE BIDDER MAY NOT ASSERT THAT THE ENTIRE BID OR RESPONSE IS PROPRIETARY. COST WILL NOT BE CONSIDERED PROPRIETARY AND IS A PUBLIC RECORD IN THE STATE OF NEBRASKA.** The State will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure (See Neb. Rev. Stat. § 84-712.05(3)). The Bidder will be notified of the agency's decision. Absent a State determination that information is proprietary, the State will consider all information a public record subject to release regardless of any assertion that the information is proprietary.

If the agency determines it is required to release proprietary information, the Bidder will be informed. It will be the Bidder's responsibility to defend the Bidder's asserted interest in non-disclosure.

To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, bid, or response to this ITB for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a bid or response to this solicitation, specifically waives any copyright or other protection the contract, bid, or response to the solicitation may have; and acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver are a prerequisite for submitting a bid or response to this ITB, and award of a contract. Failure to agree to the reservation and waiver will result in the bid or response to the ITB being found non-responsive and rejected.

Any entity awarded a contract or submitting a bid or response to the solicitation agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting

**INVITATION TO BID
6791 OF**

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
GLOSSARY OF TERMS	iv
ACRONYM LIST	viii
I. PROCUREMENT PROCEDURE	1
A. GENERAL INFORMATION.....	1
B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS.....	1
C. SCHEDULE OF EVENTS.....	1
D. WRITTEN QUESTIONS AND ANSWERS.....	2
E. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (Statutory).....	2
F. ETHICS IN PUBLIC CONTRACTING.....	2
G. DEVIATIONS FROM THE ITB.....	3
H. SUBMISSION OF BIDS.....	3
I. BID PREPARATION COSTS.....	4
J. FAILURE TO COMPLY WITH ITB.....	4
K. BID CORRECTIONS.....	4
L. LATE BIDS.....	4
M. BID OPENING.....	4
N. ITB REQUIREMENTS.....	4
O. EVALUATION OF BIDS.....	4
P. BEST AND FINAL OFFER.....	5
Q. REFERENCE AND CREDIT CHECKS.....	5
R. AWARD.....	5
S. SPECIFICATIONS.....	6
T. SAMPLES.....	6
U. ALTERNATE/EQUIVALENT BIDS.....	6
V. "LUMP SUM" OR "ALL OR NONE" BIDS.....	6
W. EMAIL SUBMISSIONS.....	6
X. BID TABULATIONS.....	6
Y. REJECTION OF BIDS.....	6
Z. RESIDENT BIDDER.....	6
II. TERMS AND CONDITIONS	7
A. GENERAL.....	7
B. NOTIFICATION.....	7
C. PCO REPRESENTATIVE.....	8
D. GOVERNING LAW (Statutory).....	8
E. AMENDMENT.....	8
F. SUBSTITUTIONS.....	8
G. VENDOR PERFORMANCE REPORT(S).....	8
H. NOTICE OF POTENTIAL BIDDER BREACH.....	9
I. BREACH.....	9
J. NON-WAIVER OF BREACH.....	9
K. SEVERABILITY.....	9
L. INDEMNIFICATION.....	10
M. ATTORNEY'S FEES.....	10
N. ASSIGNMENT, SALE, OR MERGER.....	10
O. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE.....	10
P. FORCE MAJEURE.....	11
Q. CONFIDENTIALITY.....	11
R. EARLY TERMINATION.....	11
III. BIDDER DUTIES	13
A. INDEPENDENT BIDDER / OBLIGATIONS.....	13
B. EMPLOYEE WORK ELIGIBILITY STATUS.....	13
C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory).....	14
D. COOPERATION WITH OTHER BIDDERS.....	14

**INVITATION TO BID
6791 OF**

E.	DISCOUNTS.....	14
F.	PRICES	14
G.	COST CLARIFICATION.....	14
H.	PERMITS, REGULATIONS, LAWS.....	15
I.	OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES.....	15
J.	NOTICE OF POTENTIAL BIDDER BREACH.....	15
K.	ANTITRUST.....	15
L.	CONFLICT OF INTEREST	15
M.	SITE RULES AND REGULATIONS.....	16
N.	ADVERTISING	16
O.	DISASTER RECOVERY/BACK UP PLAN.....	16
P.	DRUG POLICY	16
Q.	WARRANTY	17
IV.	PAYMENT	18
A.	PROHIBITION AGAINST ADVANCE PAYMENT (Statutory).....	18
B.	TAXES (Statutory)	18
C.	INVOICES.....	18
D.	INSPECTION AND APPROVAL	18
E.	PAYMENT (Statutory).....	18
F.	LATE PAYMENT (Statutory).....	18
G.	SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory).....	18
H.	RIGHT TO AUDIT (First Paragraph is Statutory).....	18
V.	SCOPE OF WORK	20
A.	SCOPE	20
VI.	TECHNICAL SPECIFICATIONS	21
A.	BIDDER INSTRUCTIONS	21
B.	NON-COMPLIANCE STATEMENT	21
C.	TEMPORARY SIGN STANDS.....	21
D.	SIGN STANDS AND UPRIGHT SUPPORTS	21
E.	SIGN BRACKETS.....	22
F.	SIGN STANDS AND LEGS	22
G.	ANNUAL USAGE, ESTIMATED	23
H.	USAGE REPORT	23
I.	DELIVERY ARO	24
J.	DELIVERY LOCATIONS / INSTRUCTIONS (BIDDER AGREES THAT THEY CAN MEET THE DELIVERY LOCATIONS/INSTRUCTIONS).....	24
K.	PACKAGING	25
L.	ORDERS	25
M.	QUALITY	26
N.	AUTHORIZED DEALER & WARRANTY	26
O.	WARRANTY	26
P.	SAMPLES.....	27
Q.	PERFORMANCE TESTING	27

**INVITATION TO BID
6791 OF**

GLOSSARY OF TERMS

Acceptance Test Procedure: Benchmarks and other performance criteria, developed by the State or other sources of testing standards, for measuring the effectiveness of products or goods and the means used for testing such performance.

Addendum: Something to be added or deleted to an existing document; a supplement.

Agency: Using agencies shall mean and include all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations.

Agent/Representative: A person authorized to act on behalf of another.

Amend: To alter or change by adding, subtracting, or substituting.

Amendment: A written correction or alteration to a document.

Appropriation: Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

Automated Clearing House: Electronic network for financial transactions in the United States.

Award: All purchases, leases, or contracts which are based on competitive bids will be awarded according to the provisions in the solicitation.

Best and Final Offer: In a competitive bid, the final offer submitted which contains bidder's most favorable terms for price.

Bid: An offer, bid, or quote submitted by a bidder/contractor/vendor in a response to a written solicitation.

Bidder: A contractor or vendor who submits a bid in response to a written solicitation

Breach: Violation of a contractual obligation by failing to perform or repudiation of one's own promise.

Business: Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

Business Day: Any weekday, except State-recognized holidays.

Calendar Day: Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays.

Cancellation: To call off or revoke a bid, purchase order or contract without expectation of conducting or performing at a later time.

Central Processing Unit: Any computer or computer system that is used by the State to store, process, or retrieve data or perform other functions using Operating Systems and applications software.

Change Order: Document that provides amendments to an executed purchase order.

Collusion: An agreement or cooperation between two (2) or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

Commodities: Any equipment, material, supply, or goods; anything movable or tangible that is provided or sold.

Commodities Description: Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.

Competition: The effort or action of two (2) or more commercial interests to obtain the same business from third parties.

Confidential Information: Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

Contract: An agreement between two (2) or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

Contract Administration: The management of the contract which includes and is not limited to contract signing, contract amendments

INVITATION TO BID 6791 OF

and any necessary legal actions.

Contract Management: The management of day-to-day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings, and making payments to the Bidder.

Contract Period: The duration of the contract.

Contractor: An individual or entity lawfully conducting business in the State, who seeks or agrees to provide goods or services under the terms of a written contract.

Copyright: A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work.

Critical Program Error: Any Program Error, whether or not known to the State, which prohibits or significantly impairs use of the Licensed Software as set forth in the documentation and intended in the contract.

Customer Service: The process of ensuring customer satisfaction by providing assistance and advice on those products or goods provided by a Bidder.

Default: The omission or failure to perform a contractual duty.

Deviation: Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

Evaluation: The process of examining a bid after opening to determine the Bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award

Extension: Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

Free on-Board Destination: The delivery charges are included in the quoted price and prepaid by the bidder. Bidder is responsible for all claims associated with damages during delivery of product.

Foreign Corporation: A foreign corporation that was organized and chartered under the laws of another state, government, or country.

Grievance: A complaint about a governmental action or decision related to the solicitation or resultant contract, brought by a bidder who has timely submitted a bid response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

Installation Date: The date when the procedures described in "Installation by Bidder", and "Installation by State", as found in the solicitation, or contract are completed.

Interested Party: A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein.

Invalid Bid: A bid that does not meet the requirements of the solicitation or cannot be evaluated against the other bids.

Invitation to Bid: A written solicitation utilized for obtaining competitive offers for Services or Goods.

Late Bid: An offer received after the Opening Date and Time.

Licensed Software Documentation: The user manuals and any other materials in any form or medium customarily provided by the Bidder to the users of the Licensed Software which will provide the State with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

Mandatory: Required, compulsory, or obligatory.

May: Discretionary, permitted; used to express possibility.

Module (see System): A collection of routines and data structures that perform a specific function of software.

Must: See "Mandatory".

National Institute for Governmental Purchasing: Source used for assignment of universal commodity codes to goods and services.

Open Market Purchase: Authorization may be given to an agency to purchase items above direct purchase authority due to the unique

INVITATION TO BID 6791 OF

nature, price, quantity, location of the using agency, or time limitations by the AS Materiel Division, State Purchasing Bureau.

Opening Date and Time: Specified date and time for the public opening of received, labeled, and sealed formal bids.

Operating System: The control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.

Outsourcing: The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the process is purchased back.

Payroll & Financial Center: Electronic procurement system of record.

Platform: A specific hardware and Operating System combination that is different from other hardware and Operating System combinations to the extent that a different version of the Licensed Software product is required to execute properly in the environment established by such hardware and Operating System combination.

Point of Contact: The person designated to receive communications and to communicate.

Product: Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

Program Error: Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error.

Program Set: The group of programs and products, including the Licensed Software specified in the solicitation, plus any additional programs and products licensed by the State under the contract for use by the State.

Project: The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities, and goods to be provided under the contract.

Proposal: See "Bid".

Proprietary Information: Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and service no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific named competitor(s) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information.

Protest: See "Grievance".

Public Bid Opening: The process of opening correctly submitted offers at the time and place specified in the written solicitation and in the presence of anyone who wished to attend.

Quote: See "Bid".

Recommended Hardware Configuration: The data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by the State as recommended by the Bidder.

Release Date: The date of public release of the written solicitation to seek offers.

Renewal Period: Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension.

Request for Information: A general invitation to bidder is requesting information for a potential future solicitation. The Request for Information is typically used as a research and information gathering tool for preparation of a solicitation

Responsible Bidder: A Bidder who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

Responsive Bidder: A Bidder who has submitted a bid which conforms to all requirements of the solicitation document

Shall: See "Mandatory".

Should: Expected; suggested, but not necessarily mandatory.

Software License: Legal instrument with or without printed material that governs the use or redistribution of licensed software.

**INVITATION TO BID
6791 OF**

Specifications: The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract.

Statutory: These clauses are controlled by state law and are not subject to negotiation.

Subcontractor: Individual or entity with whom the bidder enters a contract to perform a portion of the work awarded to the bidder.

System (see Module): Any collection or aggregation of two (2) or more Modules that is designed to function or is represented by the Bidder as functioning or being capable of functioning, as an entity.

Termination: Occurs when the contract expires or either party, pursuant to a power created by agreement or law puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

Third-Party: Any person or entity, including but not limited to fiduciaries, shareholders, owners, officers, managers, employees, legally disinterested persons, and sub-contractors or agents, and their employees. It shall not include any entity or person who is an interested Party to the contract or agreement.

Trade Secret: Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. § 87-502(4)).

Trademark: A word, phrase, logo, or other graphic symbol used by a manufacturer or bidder to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

Upgrade: Any change that improves or alters the basic function of a product of service.

Vendor Performance Report: A report completed by the using agency and submitted to State Purchasing Bureau documenting products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications.

Vendor: Inclusive term for any Bidder or Contractor.

Will: See "Mandatory".

**INVITATION TO BID
6791 OF**

ACRONYM LIST

ACH: Automated Clearing House

ARO: After Receipt of Order

BAFO: Best and Final Offer

DAS: Department of Administrative Services

FHWA: Federal Highway Administration

FOB: Free on Board

ITB: Invitation to Bid

MASH: Manual for Assessing Safety Hardware

NDOT: Nebraska Department of Transportation

NIGP: National Institute for Governmental Purchasing

PCO: Procurement Contracts Officer

PFC: Payroll & Financial Center

POC: Point of Contact

RFI: Request for Information

SPB: State Purchasing Bureau

**INVITATION TO BID
6791 OF**

I. PROCUREMENT PROCEDURE

A. GENERAL INFORMATION

The solicitation is designed to solicit bids from qualified Bidders who will be responsible for providing **Temporary Sign Stands** at a competitive and reasonable cost. Terms and Conditions, Project Description and Scope of Work, bid instructions, and Bid Requirements may be found in Sections II through VI.

Bids shall conform to all instructions, conditions, and requirements included in the solicitation. Prospective Bidders are expected to carefully examine all documents, schedules, and requirements in this ITB and respond to each requirement in the format prescribed. Bids may be found non-responsive if they do not conform to the ITB.

B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS

Procurement responsibilities related to this ITB reside with SPB. The POC for the procurement is as follows:

Name: Brenda Sensibaugh, PCO
Agency: State Purchasing Bureau
Address: 1526 K Street, Suite 130
Lincoln, NE 68508

Telephone: 402-471-6500

E-Mail: as.materielpurchasing@nebraska.gov

From the date the ITB is issued until the Intent to Award is issued, communication from the Bidder is limited to the POC listed above. After the Intent to Award is issued, the Bidder may communicate with individuals the State has designated as responsible for negotiating the contract on behalf of the State. No member of the State Government, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this ITB. The POC will issue any answers, clarifications, or amendments regarding this solicitation in writing. Only the SPB or awarding agency can award a contract. Bidders shall not have any communication with or attempt to communicate or influence any evaluator involved in this ITB.

The following exceptions to these restrictions are permitted:

1. Contact made pursuant to pre-existing contracts or obligations;
2. Contact required by the schedule of events, or an event scheduled later by POC; and
3. Contact required for negotiation and execution of the final contract.

The State reserves the right to reject a bidder's bid, withdraw an Intent to Award, or terminate a contract if the State determines there has been a violation of these procurement procedures.

C. SCHEDULE OF EVENTS

The State expects to adhere to the procurement schedule shown below, but all dates are approximate and subject to change.

ACTIVITY		DATE/TIME
1.	Release ITB:	June 16, 2023
2.	Last day to submit written questions: Upload written questions for 6791 OF electronically via ShareFile to: https://nebraska.sharefile.com/r-r3f3f8bd4b52b40e38577d0c234c44392	June 26, 2023
3.	State responds to written questions through an Addendum to be posted to the Internet at: https://das.nebraska.gov/materiel/bidopps.html#	June 28, 2023

**INVITATION TO BID
6791 OF**

	ACTIVITY	DATE/TIME
4.	<p>Electronic Bid Opening via Zoom (It is the bidder's responsibility to make sure they are able to join the zoom meeting prior to the meeting.):</p> <p>Upload electronic Bid submissions for 6791 OF via ShareFile to:</p> <p>https://nebraska.sharefile.com/r-r6bead3721b2b4923bd60b6da9b6718ec</p> <p>Zoom Meeting Information:</p> <p>https://us02web.zoom.us/j/2629176739?pwd=NkhobXNpOU94UmFmTG1wYmJqTXhpUT09</p> <p>Meeting ID: 262 917 6739 Passcode: 5VwBuR</p>	<p>July 10, 2023 2:00 PM Central Time</p>

D. WRITTEN QUESTIONS AND ANSWERS

Questions regarding the meaning or interpretation of any solicitation provision must be submitted in writing to SPB and clearly marked "ITB Number **6791 OF; Temporary Sign Stands** Questions". POC is not obligated to respond to questions that are received late per the Schedule of Events.

Questions should be uploaded to ShareFile at <https://nebraska.sharefile.com/r-r3f3f8bd4b52b40e38577d0c234c44392> but may also be emailed.

Bidders should present, as questions, any assumptions upon which the Bidder's Bid is or might be developed. Bids will be evaluated without consideration of any known or unknown assumptions of a Bidder. The contract will not incorporate any known or unknown assumptions of a Bidder.

It is recommended that questions be submitted using the following format:

Solicitation Section Reference	Solicitation Page Number	Question

Written answers will be posted at <https://das.nebraska.gov/materiel/bidopps.html> per the Schedule of Events.

E. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (Statutory)

All Bidders must be authorized to transact business in the State and comply with all Nebraska Secretary of State Registration requirements. The Bidder who is the recipient of an Intent to Award will be required to certify that it has complied and produce a true and correct copy of its current (within ninety (90) calendar days of the intent to award) Certificate or Letter of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and the United States Citizenship Attestation Form, available on the DAS website at: <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the contract.

F. ETHICS IN PUBLIC CONTRACTING

The State reserves the right to reject bids, withdraw an intent to award or award, or terminate a contract if a Bidder commits or has committed ethical violations, which include, but are not limited to:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the bidding process;
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the bidding process;
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any state or federal entity;
4. Submitting a bid on behalf of another party or entity; and,
5. Collude with any person or entity to influence the bidding process, submit sham bids, preclude bidding, fix pricing or costs, create an unfair advantage, subvert the bid, or prejudice the State.

The Bidder shall include this clause in any subcontract entered into for the exclusive purpose of performing this contract.

The Bidder shall have an affirmative duty to report any violations of this clause by the Bidder throughout the bidding process, and throughout the term of this contract for the successful Bidder and their subcontractors.

INVITATION TO BID 6791 OF

G. DEVIATIONS FROM THE ITB

The requirements contained in the solicitation in Sections II through VI become a part of the terms and conditions of the contract resulting from this solicitation. Any deviations from the solicitation in Sections II through VI must be clearly defined by the Bidder in its bid and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the solicitation, solicitation requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this solicitation, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this solicitation. The State discourages deviations and reserves the right to reject proposed deviations.

H. SUBMISSION OF BIDS

The State is accepting electronically submitted bids for this ITB.

IT IS THE BIDDERS' RESPONSIBILITY TO ENSURE ALL BIDS SHALL BE SUBMITTED AS INSTRUCTED BELOW, BE MANUALLY SIGNED IN AN INDELIBLE MANNER OR BY DOCUSIGN AND RECEIVED BY THE DATE AND TIME INDICATED IN THE SCHEDULE OF EVENTS FOR EACH BID SUBMITTED TO BE EVALUATED.

*****DO NOT SUBMIT DOCUMENTS THAT HAVE BEEN SAVED WITH A PASSWORD*****

SUBMITTING DOCUMENTS THAT HAVE BEEN SAVED WITH A PASWORD MAY MAKE IT IMPOSSIBLE FOR SPB TO DOWNLOAD YOUR BID/BID DOCUMENTS, THUS YOUR BID WILL BE NON-RESPONSIVE.

1. ELECTRONICALLY SUBMITTING ELECTRONIC BID(S)

- a. Bidders should upload bid(s) via ShareFile to:
<https://nebraska.sharefile.com/r-r6bead3721b2b4923bd60b6da9b6718ec>
- b. **Not all browsers are compatible with ShareFile. Currently Chrome, Internet Explorer and Firefox are compatible, but Microsoft Edge is not.**
- c. **After the bidder clicks the bid submission link, the bidder will be prompted to enter contact information including an e-mail address so that the bidder will receive a confirmation email confirming the successful upload directly from ShareFile.**
- d. The Bidder is solely responsible for any variance between the copies submitted.
- e. If multiple bids are submitted, the State will retain only the most recently submitted response.

2. OTHER BID DOCUMENTS TO UPLOAD TO SHAREFILE

- a. Any **Proprietary information** (if applicable) should be uploaded as separate and distinct files.
- b. If it is the bidder's intent to submit multiple bids, the bidder must clearly identify each submission separately (see "Electronic ITB File Names" below).
- c. It is the Bidder's responsibility to submit the Electronic Bid(s) and be received by the date and time of the Bid Opening indicated in the Schedule of Events.
- d. **Hardware, software, internet, user, or electronic issues will not excuse a late bid.**

3. ELECTRONIC ITB FILE NAMES

- a. The Bidder should clearly identify the uploaded Bid files.
- b. **Do not submit bid file(s) more than 30 days prior to the Bid Opening. Once file(s) are uploaded they are only available for 30 days.**
- c. **DO NOT ADD ANY LANGUAGE TO THE NAMING CONVENTIONS BELOW. Long titles can make the files difficult to work with AND CAN MAKE YOUR BID/BID DOCUMENTS UNABLE TO DOWNLOAD MAKING YOUR BID NON-RESPONSIVE.**
- d. If the bidder submits the bid/bid documents as **one (1) complete packet (preferred method)**, please use the following naming convention:
 - **6791 OF Temporary Sign Stands <<NAME OF BIDDER>> Bid.**
- e. If the bidder submits the bid/bid documents as separate files, please use the following naming convention(s):
 - **6791 OF Temporary Sign Stands <<NAME OF BIDDER>> Bid, File 1, File 2, File 3, etc....**
- f. If multiple bids are submitted for the same ITB number, follow the same naming convention as letter "e", for example:
 - **6791 OF Temporary Sign Stands<<NAME OF BIDDER>> Bid 2, File 1, File 2, File 3, etc....**

Emphasis Should be concentrated on conformance to the ITB. Bids Should be clear and complete. If the bid is not presented clearly or is difficult to discern, in the sole opinion of the State, the State reserves the right to reject the bid

It is the responsibility of the Bidder to check the website often for all information relevant to this ITB to include Addenda and/or Amendments issued prior to the Opening Date and Time. The website address is:
<https://das.nebraska.gov/materiel/bidopps.html>

**INVITATION TO BID
6791 OF**

I. BID PREPARATION COSTS

The State shall not incur any liability for any costs incurred by Bidders in replying to this solicitation, including any activity related to bidding on this ITB.

J. FAILURE TO COMPLY WITH ITB

Violation of the terms and conditions contained in this ITB or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a Bidder's bid;
2. Withdrawal of the Intent to Award;
3. Withdrawal of the Award;
4. Negative Vendor Performance Report(s);
5. Termination of the resulting contract;
6. Legal action; or,
7. Suspension of the Bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

K. BID CORRECTIONS

A bidder may correct a mistake in a bid prior to the time of opening by giving written notice to the State of intent to withdraw the bid for modification or to withdraw the bid completely. Changing a bid after opening may be permitted if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions. In case of a mathematical error in extension of price, unit price shall govern.

L. LATE BIDS

All bids must be received by SPB by the date and time of the Bid Opening per the Schedule of Events. It is the Bidder's responsibility to ensure timely submission and receipt and the State is not responsible for bids that are late or lost, regardless of cause or fault. No Late Bids will be evaluated. Late Bids may be returned to the bidder if requested by the Bidder within sixty (60) Calendar days after this late bid was submitted and will at the Bidder's expense.

M. BID OPENING

Anyone may attend the opening. It is considered a public opening. The PCO will read the names of the respondents. Depending upon the complexity of the bid for goods, the PCO may read the bids aloud or allow bids to be available for viewing by the public during the bid opening. Once the bid opening has concluded, the bids will not be available for viewing until the Intent to Award has been posted. An initial bid tabulation will be posted to the website as soon as feasible. Information identified as proprietary by the submitting bidder, in accordance with the solicitation and state statute, will not be posted. If the state determines submitted information should not be withheld, in accordance with the [Public Records Act](#), or if ordered to release any withheld information, said information may then be released. The submitting bidder will be notified of the release and it shall be the obligation of the submitting bidder to take further action if it believes the information should not be released.

N. ITB REQUIREMENTS

The bids will first be examined to determine if all requirements listed below have been addressed and whether further evaluation is warranted. Bids not meeting the requirements may be rejected as non-responsive. The requirements are:

1. Original Commodity ITB form signed using an indelible method or by DocuSign;
2. Clarity and responsiveness of the bid;
3. Completed Sections II through VI; and,
4. Completed ITB Form or State's Bid Sheet.

O. EVALUATION OF BIDS

All bids that are responsive to the solicitation will be evaluated based on the following:

Neb. Rev. Stat. § 81-161 allows the quality of performance of previous contracts to be considered when evaluating responses to competitively bid solicitations in determining the lowest responsible bidder. Information obtained from any Vendor Performance Report (See Terms & Conditions, Section H) may be used in evaluating responses to solicitations for goods and services to determine the best value for the State.

Neb. Rev. Stat. § 73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone. When a state contract is to be awarded to the lowest responsible contractor, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident contractor, if all other factors are equal.

Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or,

INVITATION TO BID 6791 OF

in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision(a) of this subsection. Any contract entered into without compliance with this section shall be null and void.

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a bid in accordance with Neb. Rev. Stat. § 73-107 and has so indicated on the ITB cover page under "Bidder or must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the bidder within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service;
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
3. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
4. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within ten (10) business days of notice will disqualify the bidder from consideration of the preference.

P. BEST AND FINAL OFFER

If a BAFO is requested by the State and submitted by the bidder, it will be evaluated (using the stated BAFO criteria) and ranked. The State reserves the right to conduct more than one (1) BAFO. The award will then be granted to the lowest responsible bidder. However, a bidder should provide its best offer in its original bid. Bidders should not expect that the State will request a BAFO.

Q. REFERENCE AND CREDIT CHECKS

The State reserves the right to conduct and consider reference and credit checks. The State reserves the right to use third parties to conduct reference and credit checks. By submitting a bid in response to this ITB, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients. Reference and credit checks may be grounds to reject a bid, withdraw an intent to award, or rescind the award of a contract.

R. AWARD

The State reserves the right to evaluate bids and award contracts in a manner utilizing criteria selected at the State's discretion and in the State's best interest. After evaluation of the bids, or at any point in the solicitation process, the State of Nebraska may take one or more of the following actions:

1. Amend the ITB;
2. Extend the time of or establish a new bid opening time;
3. Waive deviations or errors in the State's ITB process and in bidder bids that are not material, do not compromise the solicitation process or a bidder's bid, and do not improve a bidder's competitive position;
4. Accept or reject a portion of or all of a bid;
5. Accept or reject all bids;
6. Withdraw the solicitation;
7. Elect to rebid the solicitation;
8. Award single lines or multiple lines to one (1) or more bidders; or,
9. Award one (1) or more all-inclusive contracts.

The State of Nebraska may consider, but is not limited to considering, one (1) or more of the following award criteria:

1. Price;
2. Location;
3. Quality;
4. Delivery time;
5. Bidder qualifications and capabilities; and,
6. State contract management requirements and/or costs.

The solicitation does not commit the State to award a contract. Once intent to award decision has been determined, it will be posted to the Internet at: <http://das.nebraska.gov/materiel/purchasing.html>

Any protests must be filed by a Bidder within ten (10) business days after the intent to award decision is posted to the Internet. Grievance and protest procedure is available on the Internet at: <http://das.nebraska.gov/materiel/purchasing.html>

**INVITATION TO BID
6791 OF**

S. SPECIFICATIONS

Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition but will be used as the standard by which equivalent material offered will be judged. The Materiel Administrator will be the sole judge of equivalency. The Bidder may offer any brands which meets or exceeds the specification. When a specific product is required, the solicitation will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

T. SAMPLES

When requested, samples should be furnished at the Bidder's expense prior to the opening of the bid, unless another time is specified. Each sample should be labeled clearly and identify the Bidder's name, the ITB number, item number, and the brand and model number, if applicable. Samples submitted must be the commodities or equipment which would be delivered if awarded the bid. The State reserves the right to request samples even though this may not have been set forth in the solicitation. Samples may be destroyed in testing. If a sample is not destroyed in testing and a Bidder wishes to have the sample returned, it will be returned at the Bidder's expense upon request. The sample will not be returned until thirty (30) calendar days after any bid protest or, the execution of a contract. The Bidder shall have ten (10) calendar days to arrange for the return of the sample to the Bidder following any of the above dates. If no request from the Bidder is received within the above dates, the State reserves the right to use, donate, or surplus the samples in accordance with the State's policies.

U. ALTERNATE/EQUIVALENT BIDS

Bidder may offer bids which are at variance from the express specifications of the solicitation. The State reserves the right to consider and accept such bids if, in the judgment of the Materiel Administrator, the bid will result in goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidder must indicate on the solicitation the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specification, and the Bidder shall be held liable, therefore.

V. "LUMP SUM" OR "ALL OR NONE" BIDS

The State reserves the right to purchase "item-by-item", by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an "item-by-item" basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and Bidder declines to accept award on individual items; a "lump sum" bid is when the Bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

**"LUMP SUM" OR "ALL OR NONE" BIDS SHOULD BE CONSPICUOUSLY MARKED ON THE FIRST PAGE OF THE ITB
AND BID SHEET (IF APPLICABLE)**

W. EMAIL SUBMISSIONS

SPB will not accept bids by email, voice, or telephone bids **except** for one-time purchases under \$50,000.00.

X. BID TABULATIONS

Bid tabulations are available on the website at: <https://das.nebraska.gov/materiel/bidopps.html>.

Y. REJECTION OF BIDS

The State reserves the right to reject any or all bids, wholly or in part, in the best interest of the State.

Z. RESIDENT BIDDER

Pursuant to Neb. Rev. Stat. §§ 73-101.01 through 73-101.02, a Resident Bidder shall be allowed a preference against a Non-resident Bidder from a state which gives or requires a preference to Bidders from that state. The preference shall be equal to the preference given or required by the state of the Nonresident Bidders. Where the lowest responsible bid from a resident Bidder is equal in all respects to one from a nonresident Bidder from a state which has no preference law, the resident Bidder shall be awarded the contract. The provision of this preference shall not apply to any contract for any project upon which federal funds would be withheld because of the provisions of this preference.

**INVITATION TO BID
6791 OF**

II. TERMS AND CONDITIONS

Bidders should complete Section II through VI as part of their bid. Bidder is expected to read the Terms and Conditions and must initial either accept, reject, or reject and provide alternative language for each clause. The Bidder should also provide an explanation of why the Bidder rejected the clause or rejected the clause and provided alternate language using "Track Changes". Upon request an electronic copy of the bid with "Track Changes" must be submitted in an editable Word format. By signing the ITB, Bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the bid. The State reserves the right to negotiate rejected or proposed alternative language. If the State and Bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the bid. The State is soliciting bids in response to the ITB. The State reserves the right to reject bids that attempt to substitute the Bidder's commercial contracts and/or documents for this ITB.

The Bidder should submit with their bid any license, user agreement, service level agreement, or similar documents that the Bidder wants incorporated in the Contract. Upon notice of Intent to Award, the Bidder must submit a copy of these documents in an editable Word format. The State will not consider incorporation of any document not submitted with the Bidder's bid. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the addendums have been negotiated and agreed to, the addendums shall be interpreted as follows:

1. If only one (1) Party's document has a particular clause, then that clause shall control;
2. If both Party's documents have a similar clause, but the clauses do not conflict, the clauses shall be read together; and,
3. If both Party's documents have a similar clause, but the clauses conflict, the State's clause shall control.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The contract resulting from this ITB shall incorporate the following documents:

1. ITB and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Bidder's bid response;
5. The executed Contract and any Addenda, if applicable, and properly submitted documents; and,
6. Amendments to the Contract

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to solicitation and any Questions and Answers, 4) the original solicitation document and any Addenda, and 5) the Bidder's submitted Bid.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State.

B. NOTIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Communication regarding the executed contract shall be given in writing and deemed to have been delivered via email to the specified Contract Contact information provided on the submitted ITB form with the submitted bid(s). The Vendor should send written notice to the SPB. The State will send notices to the authorized contact provided on the ITB form. Either party may change its address for notification purposes by giving notice of the change and setting forth the new address and an effective date.

**INVITATION TO BID
6791 OF**

C. PCO REPRESENTATIVE

The State reserves the right to appoint a PCO'S to manage [or assist the PCO in managing] the contract on behalf of the State. The PCO'S Representative will be appointed in writing, and the appointment document will specify the extent of the PCO'S Representative authority and responsibilities. If a PCO'S Representative is appointed, the Bidder will be provided a copy of the appointment document and is expected to cooperate accordingly with the PCO'S Representative. The PCO'S Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this contract must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third-party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

E. AMENDMENT

This Contract may be amended in writing, within scope, upon the agreement of both parties.

F. SUBSTITUTIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

In the event any product is discontinued or replaced upon mutual consent during the contract period or prior to delivery, the State reserves the right to amend the contract or purchase order to include the alternate product at the same price.

If the Vendor requests to substitute any contracted item and the substitute meets or exceeds the original specifications, the State may accept or reject the substitution.

If the Vendor requests to substitute any contracted item, which meets or exceeds the original specifications, and the cost of the substitute is higher, the State may accept or reject the substitution and price change.

If the State and the Vendor do not agree to the requested substitution and price change, the Contract may be terminated immediately by the State. In the event any product is discontinued or replaced upon mutual consent and prior to delivery during the Contract Period the State reserves the right to amend the contract or purchase order to include the alternate product.

*****Bidder will not substitute any item that has been awarded without prior written approval of SPB*****

G. VENDOR PERFORMANCE REPORT(S)

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The SPB may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

**INVITATION TO BID
6791 OF**

H. NOTICE OF POTENTIAL BIDDER BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

If the Bidder breaches the contract or anticipates breaching the contract, the Bidder shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

I. BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Email, Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time.

In case of breach by the Bidder, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the bidder. The State may recover from the Bidder as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Bidder's breach OR in case of default of the Bidder, the State may contract the service from other sources and hold the Bidder responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Bidder shall retain all available statutory remedies. (See Indemnification - Self-Insurance and Payment)

J. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

K. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

**INVITATION TO BID
6791 OF**

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

L. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

1. GENERAL

The Bidder agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials (“the indemnified parties”) from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Bidder, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Bidder liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. SELF-INSURANCE (Statutory)

The State is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this contract, Bidder may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 through 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this contract to the extent provided by law.

M. ATTORNEY’S FEES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney's fees and costs, if the other party prevails.

N. ASSIGNMENT, SALE, OR MERGER

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Either party may assign the contract upon mutual written agreement of the other party. Such agreement shall not be unreasonably withheld.

The Bidder retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Bidder’s business. Bidder agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Bidder will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

O. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

**INVITATION TO BID
6791 OF**

--	--	--	--

The Bidder may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause.

The Bidder may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

P. FORCE MAJEURE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Neither party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or man-made event outside the control and not the fault of the affected party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other party and shall have the burden of proof to justify the request. The other Party may granted the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event.

Q. CONFIDENTIALITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.00.

R. EARLY TERMINATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The contract may be terminated as follows:

1. The State and the Bidder, by mutual written agreement, may terminate the contract at any time.
2. The State, at its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Bidder. Such termination shall not relieve the Bidder of warranty or other service obligations incurred under the terms of the contract. In the event of termination, the Bidder shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.

**INVITATION TO BID
6791 OF**

3. The State may terminate the contract immediately for the following reasons:
- a. if directed to do so by statute;
 - b. Bidder has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. a trustee or receiver of the Bidder or of any substantial part of the Bidder's assets has been appointed by a court;
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Bidder, its employees, officers, directors, or shareholders;
 - e. an involuntary proceeding has been commenced by any party against the Bidder under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Bidder has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Bidder has been decreed or adjudged a debtor;
 - f. a voluntary petition has been filed by the Bidder under any of the chapters of Title 11 of the United States Code;
 - g. Bidder intentionally discloses confidential information;
 - h. Bidder has or announces it will discontinue support of the deliverable; and,
 - i. In the event funding is no longer available.

**INVITATION TO BID
6791 OF**

III. BIDDER DUTIES

A. INDEPENDENT BIDDER / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

It is agreed that the Bidder is an independent bidder and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Bidder is solely responsible for fulfilling the contract. The Bidder or the Bidder's representative shall be the sole point of contact regarding all contractual matters.

The Bidder shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Bidder uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights, or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Bidder's bid shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The Bidder warrants that all persons assigned to the project shall be employees of the Bidder or a Subcontractor and shall be fully qualified to perform the work required herein. Personnel employed by the Bidder or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Bidder or the subcontractor respectively.

With respect to its employees, the Bidder agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Bidder's employees, including all insurance required by state law;
3. Damages incurred by Bidder's employees within the scope of their duties under the contract;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Bidder's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Bidder, its officers, agents, or subcontractors or subcontractor's employees).

If the Bidder intends to utilize any subcontractor, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Bidder's bid. The Bidder shall agree that it will not utilize any Subcontractors not specifically included in its bid in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Bidder to reassign or remove from the project any Bidder or Subcontractor employee.

Bidder shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Bidder shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Bidder is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Bidder is an individual or sole proprietorship, the following applies:

1. The Bidder must complete the United States Citizenship Attestation Form, available on the DAS website at <https://das.nebraska.gov/forms/index.html#mat>.

The completed United States Attestation Form should be submitted with the solicitation response.

**INVITATION TO BID
6791 OF**

2. If the Bidder indicates on such attestation form that he or she is a qualified alien, the Bidder agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Bidder's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Bidder understands and agrees that lawful presence in the United States is required, and the Bidder may be disqualified, or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Bidder shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Bidders of the State, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 through 48-1125). The Bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Bidder shall insert a similar provision in all Subcontracts for goods or services to be covered by any contract resulting from this solicitation.

D. COOPERATION WITH OTHER BIDDERS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Bidder may be required to work with or in close proximity to other bidders or individuals that may be working on the same or different projects. The Bidder shall agree to cooperate with such other bidders or individuals and shall not commit or permit any act which may interfere with the performance of work by any other bidder or individual. Bidder is not required to compromise Bidder's intellectual property or proprietary information unless expressly required to do so by this contract.

E. DISCOUNTS

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

F. PRICES

Prices quoted shall be net, **including transportation and delivery charges fully prepaid by the Bidder**, FOB Destination named in the ITB. **No additional charges will be allowed for packing, packages, or partial delivery costs.** When an arithmetic error has been made in the extended total, the unit price will govern.

All prices, costs, and terms and conditions submitted in the bid shall be unit price and remain fixed and valid commencing on the opening date of the bid and shall remain firm for the first one hundred eighty (180) days of the contract award.

Any request for a price increase must be submitted in writing to SPB for approval and be accompanied by documentation justifying the price increase (i.e. invoices for physical components of contracted item(s), Manufacturer/Mill Letters, etc.). SPB has thirty (30) days to review and award any Price increase or decrease (after documentation is approved). Further documentation may be required by the State to justify the increase. The State reserves the right to deny any requested price increase.

No price increases are to be billed to the State prior to an Amendment to the Contract, which has been signed and completed by both the State and the awarded bidder, the Amendment is posted to the SPB website and written notice has been given to both the State and the awarded bidder.

The State will be given full proportionate benefit of any decreases for the term of the contract.

G. COST CLARIFICATION

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any bid where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

**INVITATION TO BID
6791 OF**

H. PERMITS, REGULATIONS, LAWS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Bidder shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the performance of the contract. The Bidder must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

I. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Bidder on behalf of the State pursuant to this contract.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Bidder shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

J. NOTICE OF POTENTIAL BIDDER BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

If Bidder breaches the contract or anticipates breaching the contract the Bidder shall immediately give written notice to the State. The notice shall explain the breach or potential breach and may include a request for a waiver of the breach if so desired. The State may, at its discretion, temporarily or permanently waive the breach. By granting a temporary waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

K. ANTITRUST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The Bidder hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

L. CONFLICT OF INTEREST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

**INVITATION TO BID
6791 OF**

--	--	--	--

By submitting a bid, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this ITB.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its bid a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

M. SITE RULES AND REGULATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The Bidder shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Bidder must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Bidder.

N. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The Bidder agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods and services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

O. DISASTER RECOVERY/BACK UP PLAN

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The Bidder shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

P. DRUG POLICY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Bidder certifies it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Bidder agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**INVITATION TO BID
6791 OF**

Q. WARRANTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Despite any clause to the contrary, the Bidder represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Contract. For any breach of this warranty, the Bidder shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Customer, or if Bidder is unable to perform the services as warranted, Bidder shall reimburse Customer the fees paid to Bidder for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees, and costs.

**INVITATION TO BID
6791 OF**

IV. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Neb. Rev. Stat. § 81-2403 states, "[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency."

B. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Bidder may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Bidder's equipment which may be installed in a state-owned facility is the responsibility of the Bidder.

C. INVOICES

Invoices for payments must be submitted by the Bidder to the agency requesting the services with sufficient detail to support payment. The terms and conditions included in the Bidder's Invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

D. INSPECTION AND APPROVAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

Final inspection and approval of all work required under the contract shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where the Bidder or Subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

E. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. § 81-2403). The State may require the Bidder to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Bidder prior to the Effective Date of the contract, and the Bidder hereby waives any claim or cause of action for any such services.

F. LATE PAYMENT (Statutory)

The Bidder may charge the responsible Agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Bidder written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Bidder shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Bidder be paid for a loss of anticipated profit.

H. RIGHT TO AUDIT (First Paragraph is Statutory)

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:

The State shall have the right to audit the Bidder's performance of this contract upon a thirty (30) day written notice. Bidder shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract (Neb. Rev. Stat. § 84-304 et seq.). The State may audit, and the Bidder shall maintain the information during the term of the contract and for a period of five (5) years after the

**INVITATION TO BID
6791 OF**

completion of this contract or until all issues or litigation are resolved, whichever is later. The Bidder shall make the Information available to the State at Bidder's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Bidder so elects, the Bidder may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. In no circumstances will bidder be required to create or maintain documents not kept in the ordinary course of bidder's business operations, nor will bidder be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to bidder.

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one percent (.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Bidder, the Bidder shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Bidder agrees to correct any material weaknesses or condition found as a result of the audit.

**INVITATION TO BID
6791 OF**

V. SCOPE OF WORK

The Bidder must provide the following information in response to this ITB.

A. SCOPE

It is the intent of this bid invitation to establish a contract to supply **Temporary Sign Stands** per the attached specifications from date of award for a period of One (1) year with the option to renew for an additional Four (4) One (1) year periods. when mutually agreeable to the Bidder and the State. The State reserves the right to extend the period of this contract beyond the end date when mutually agreeable to the bidder and the State.

All items proposed shall be of the latest manufacture in production as of the date of the solicitation and be of proven performance and under standard design complete as regularly advertised and marketed. All necessary materials for satisfactory performance of the supplies shall be incorporated into the **Temporary Sign Stands** whether or not they may be specifically mentioned below.

Complete specifications, manufacturer's current descriptive literature and/or advertising data sheets with cuts or photographs must be included with the bid for the IDENTICAL items proposed. Any information necessary to show compliance with these specifications not given on the manufacturer's descriptive literature and/or advertising data sheets must be supplied in writing on or attached to the bid document. If manufacturer's information necessary to show compliance with these specifications is not attached to the bid document, the Bidder may be required to submit requested information within three (3) business days of a written request. Failure to submit requested descriptive literature or advertising data sheets may be grounds to reject the bid.

**INVITATION TO BID
6791 OF**

VI. TECHNICAL SPECIFICATIONS

A. BIDDER INSTRUCTIONS

Bidder must respond to each of the following statements. Specifications listed are minimum conditions that must be met in order for a Bidder to qualify for the award.

A “**YES**” response means the Bidder guarantees they can meet this condition.

A “**NO**” response means the Bidder cannot meet this condition and will not be considered.

A “**NO & PROVIDE ALTERNATIVE**” response should be used only with a narrative response in the “**NOTES/COMMENTS**” section explaining in detail any deviation from the Bidder’s ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. **Alternatives must be detailed in such a way that allows such deviations to be fully evaluated. The State shall determine at its sole discretion whether or not the Bidder’s alternative is an acceptable alternative.**

*****ALL ITEMS IN THE FOLLOWING SPECIFICATIONS ARE REQUIREMENTS*****

B. NON-COMPLIANCE STATEMENT

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Read these specifications carefully
			2. Any and all exceptions to these specifications must be written on or attached to the solicitation response.
			3. Any noncompliance may void your bid. Non-compliance to any single specification can void your bid.
			4. It is the responsibility of Bidder to obtain information and clarifications as provided below.
			5. The State is not responsible for any erroneous or incomplete understandings or wrongful interpretations of this solicitation by any Bidder.
NOTES/COMMENTS:			

C. TEMPORARY SIGN STANDS

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Temporary Sign Stands shall be MASH 2016 approved.
			2. The Bidder must provide with their bid, or within five (5) business days of a request from State Purchasing Bureau, a letter from FHWA documenting MASH 2016 approval of the Temporary Sign Stands with signs being bid.
NOTES/COMMENTS:			

D. SIGN STANDS AND UPRIGHT SUPPORTS

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Sign Stands and Upright Supports shall provide wind resistance by means of steel coiled springs or protruded fiberglass leaf-spring.

**INVITATION TO BID
6791 OF**

			2.	Sign mounting height shall be adjustable with the minimum height being twelve inches (12") above ground.
			3.	Component part will be comprised primarily of galvanized steel, stainless steel, or aluminum.
			4.	Will be two (2)-part adjustable support with both rigid and roll-up sign bracket accessories.

NOTES/COMMENTS:

E. SIGN BRACKETS

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Sign Brackets shall be rigid and must securely hold the sign panels of both rectangular and diamond shapes.
			2. Roll Up Sign Brackets must securely hold the sign by means of a pressure plate clamp system with end anchors.
			3. The pressure plate clamp shall attach to the roll-up sign fiberglass bracing and be compatible with all major roll-up signs.

NOTES/COMMENTS:

F. SIGN STANDS AND LEGS

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Sign Stands shall have four (4) legs.
			2. Each leg shall have a leg-locking pin with a simple foot-release lever.
			3. The base of the Sign Stand shall have a minimum of three (3) leg-locking pinholes for each leg. One (1) hole for storage and two (2) pinholes at different levels for leg deployment.
			4. Each leg shall be independently adjustable.
			5. Each leg shall have a rubber foot pad riveted to the end of the leg to prevent the stand from potentially "walking" in gusts of wind.
			6. Legs shall be extendable to provide a larger ground support area.
			7. Leg extensions must lock in position with a locking pin easily operated with a gloved hand.
			8. Base dimensions with legs fully extended shall be a minimum size of thirty-eight inches (38") wide by eighty inches (80") deep.

NOTES/COMMENTS:

**INVITATION TO BID
6791 OF**

G. ANNUAL USAGE, ESTIMATED

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Annual usage figures provided are estimates and are not to be construed as either a minimum or maximum purchase quantity.
			2. The orders shall be for the actual quantities of each item ordered by or for any Agency during the life of the contract.
			3. Bidder shall not impose minimum order requirements.
			4. Temporary Sign Stand Annual Usage, Estimated:
			a. The estimated annual usage of the "Warehouse Temporary Sign Stands" located at located at 5001 S. 14th St., Lincoln is two hundred (200) Each.
			b. The estimated annual usage of the "D1 Temporary Sign Stands" located at 302 Superior St., Lincoln is seventy-five (75) Each.
			c. The estimated annual usage of the "D2 Temporary Sign Stands" located at 4425 S. 108th St., Omaha is fifty (50) Each.
			d. The estimated annual usage of the "D3 Temporary Sign Stands" located at 408 N. 13th St., Norfolk is one hundred (100) Each.
			e. The estimated annual usage of the "D4 Temporary Sign Stands" located at 3305 W. Old Potash Highway, Grand Island is one hundred (100) Each.
			f. The estimated annual usage of the "D5 Temporary Sign Stands" located at 140375 Rundell Rd., Gering is one hundred twenty (120) Each.
			g. The estimated annual usage of the "D6 Temporary Sign Stands" located at 2400 W. 14th St., North Platte is eighty (80) Each.
			h. The estimated annual usage of the "D7 Temporary Sign Stands" located at 38764 Highway 6, McCook is fifty (50) Each.
			i. The estimated annual usage of the "D8 Temporary Sign Stands" located at 736 E. 4th St., Ainsworth is thirty (30) Each.
NOTES/COMMENTS:			

H. USAGE REPORT

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. The bidder shall, upon request at any time by the State, as determined by the State, provide a usage report of the resulting contract(s) by State agencies and political subdivisions.
			2. Information will include, but is not limited to:
			a. Agency/political subdivision name.
			b. Item name.
			c. Item number.
			d. Dollar amount.
			e. Number of orders received.
			f. Orders processed.
			g. Back orders.

**INVITATION TO BID
6791 OF**

			h. Partially filled orders.
			i. Any additional report the State may deem necessary.
NOTES/COMMENTS:			

I. DELIVERY ARO

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Delivery desired within five (5) calendar days ARO.
			2. The awarded Bidder(s) shall maintain sufficient inventory to process and deliver items within five (5) calendar days ARO.
			3. If delays in delivery are anticipated, the awarded Bidder(s) will immediately notify the NDOT District listed in the "Ship To" area on the Purchase Order (districts are also listed in the following Subsection titled "DELIVERY LOCATIONS/INSTRUCTIONS") of the expected delivery date.
			4. Order(s) may be canceled if the delivery time is unsatisfactory, and the State may procure item(s) from other sources.
			5. The awarded Bidder(s) will be held responsible for any/all excess cost of the items procured from other sources.
NOTES/COMMENTS:			

J. DELIVERY LOCATIONS / INSTRUCTIONS (BIDDER AGREES THAT THEY CAN MEET THE DELIVERY LOCATIONS/INSTRUCTIONS)

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. At the time of delivery, a designated State employee will sign the "invoice/packing slip." This signature will only indicate that the order has been received and that the items actually delivered agree with the delivery invoice.
			2. This signature does not indicate all items were received in good condition and/or that there is not possible hidden damage.
			3. Delivery Locations listed below (please note this is not an exclusive list of Delivery Locations and that locations can be added or removed as needed when agreed upon by the State and the awarded Bidder(s)):
			a. District #1 302 Superior St. Lincoln, NE 68521
			b. District #2 4425 S. 108 TH St. Omaha, NE 68145
			c. District #3 408 N. 13th St. Norfolk, NE 68702
			d. District #4 3305 W. Old Potash Highway Grand Island, NE 68802
			e. District #5 140375 Rundell Rd. Gering, NE 69341
			f. District #6 2400 W. 14th St. North Platte, NE 69101

**INVITATION TO BID
6791 OF**

			g. District #7 38764 Highway 6 McCook, NE 69341
			h. District #8 736 E. 4th St. Ainsworth, NE 69210
			i. Operations Division Warehouse 5001 S. 14th St. Lincoln, NE 68512-1248
NOTES/COMMENTS:			

K. PACKAGING

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Packages are to be clearly marked with:
			a. The purchase order number.
			b. Size.
			c. Weight.
			d. Color.
			e. Quantity.
			2. Packaging must be of suitable size and of sufficient strength to protect the contents during shipping, handling, and storage.

NOTES/COMMENTS:			
------------------------	--	--	--

L. ORDERS

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Orders will be placed either by phone or e-mail.
			2. All orders must reference a purchase order number
			3. The purchase order number must be referenced on the packing slip, and invoice.
			4. Invoices are to be sent to the "Invoice to" address on the purchase order.

NOTES/COMMENTS:			
------------------------	--	--	--

**INVITATION TO BID
6791 OF**

M. QUALITY

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. Product quality must meet specifications and be consistent for the term of the contract. All materials must be of first quality, under standard production by the manufacturer and be of standard design, complete as regularly advertised and marketed and be of proven performance.
			2. A guarantee of satisfactory performance by the bidder and meeting delivery dates are considered to be an integral part of the contract resulting from this ITB.
			3. Products are to be fully guaranteed and may be returned for full credit or replacement (at the State's option) for any reason during the initial warranty period with no additional charges for shipping or restocking.
NOTES/COMMENTS:			

N. AUTHORIZED DEALER & WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. To the extent required by the manufacturer, the Bidder shall be an authorized dealer.
			2. Bidder may be required to substantiate that they are an authorized dealer.
			3. Proof, if required, must be submitted to SPB within three (3) business days of the request and prior to the award of any contract.
			4. The terms of the original manufacturer's standard warranty shall apply to all equipment acquired from this solicitation for the entire warranty period.
NOTES/COMMENTS:			

O. WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
			1. The Bidder warrants for a period of one (1) year from the date of acceptance that:
			a. the Products perform according to all specific claims that the Bidder made in its response to the solicitation.
			b. the Product is suitable for the ordinary purposes for which such Product is used.
			c. The Product is suitable for any special purposes identified in the solicitation or for which the State has relied on the Bidder's skill or judgment.
			d. The Product is designed and manufactured in a commercially reasonable manner.
			e. The Product is free of defects.
			2. Upon breach of the warranty, the Bidder will repair or replace (at no charge to the State) the Product whose nonconformance is discovered and made known to the Bidder.

**INVITATION TO BID
6791 OF**

			<p>3. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Bidder will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees, and costs.</p>
<p>NOTES/COMMENTS:</p>			

P. SAMPLES

YES	NO	NO & PROVIDE ALTERNATIVE	
			<p>1. Samples of Temporary Sign Stands, in accordance with the specifications utilizing materials and features as proposed, may be required prior to award, or at any time during the term of the contract.</p>
			<p>2. Bidder(s) are to provide samples of Temporary Sign Stands, at no cost to the State and within Ten (10) business days of a written request from the SPB.</p>
			<p>3. Failure to provide samples may be grounds to reject or void the bid or constitute a breach of the contract resulting from this bid invitation.</p>
			<p>4. Upon a written request from the SPB, sample(s) shall be shipped to: NDOT Operations Warehouse Attn: Procurement Manager 5001 S. 14 Street Lincoln, NE 68512</p>
			<p>5. Receiving hours are between 7:00 A.M. and 4:00 P.M., Monday through Friday, excluding State & Federally observed holidays or as otherwise directed.</p>
			<p>6. Samples provided must be in sufficient quantity for testing, as determined by the State.</p>
<p>NOTES/COMMENTS:</p>			

Q. PERFORMANCE TESTING

YES	NO	NO & PROVIDE ALTERNATIVE	
			<p>1. Samples of Temporary Sign Stands shall not be returned to the Bidder upon completion of testing conducted by the NDOT.</p>
			<p>2. Samples of Temporary Sign Stands are to be of material and construction as bid. Sample(s) that do not meet specifications, may be grounds to reject or void the bid or constitute a breach of the contract resulting from this bid invitation.</p>
			<p>3. Bidder may be responsible for lost production time during the testing and evaluation of equivalent products.</p>
<p>NOTES/COMMENTS:</p>			

**INVITATION TO BID
6791 OF**