



**Request for Bid  
For**

Issued by:  
One-Call Services  
IOWA DEPARTMENT OF TRANSPORTATION  
Purchasing Section  
Proposal No. **22003**

**Response Due Date: May 29, 2019**

Bids must be received on or before 1:00 PM Central Time of the bid opening date. Bids received after this date will be rejected

**For information about this solicitation  
contact:**

Jean Gustafson  
800 Lincoln Way  
Ames, Iowa 50010  
Phone: 515-239-1173  
Fax: 515-239-1538  
E-Mail: jean.gustafson@iowadot.us

**Issued addenda and all other correspondence  
will be posted to Iowa DOT's website:**

<http://www.iowadot.gov/purchasing>

## Procurement Timetable

The following dates are set forth for informational and planning purposes. The Iowa DOT reserves the right to revise the dates as needed. All times listed are Central Time.

Event/Dates	Section Reference	Date/Time
Issue RFB	cover	May 8, 2019
Number of Copies of Bid Responses Required		1
Bidder Questions, Requests for Clarification, & Changes <i>(no later than)</i>	2.2/2.5	May 15, 2019
DOT Response to Questions Issued <i>(no later than)</i>	2.2/2.5	May 17, 2019
Bid Opening/Proposal Due	2.8/2.9	May 29, 2019
Announce Successful Bidder Intent to Award* <i>see note below</i>	2.21	June 7, 2019
Completion of Contract Negotiations & Execution of the Contract	2.22	June 14, 2019
Contract Begin Date	4.2	July 1, 2019
Contract End Date	4.2	June 30, 2021
Contract Renewals	4.2	Up to 4 Annual Renewals

\*Intent to Award - See Section 2.21

It is intended that Bid Responses will be evaluated and a notice of "intent to award" will be issued within thirty (30) days of the bid opening date. Bid Responses prices, terms and conditions must be held firm for a 180-day period from the date of the notice of "intent to award".



**Iowa Department of Transportation  
Standard Terms and Conditions**

**For**

**Submission of Responses to Solicitations  
-FORMAL-**

*Formal* is the procurement process required by Iowa law when the estimated, aggregate amount of the purchase equals or exceeds \$50,000.

The entire contents of this solicitation shall become a part of a contract or purchase order. In case of a discrepancy between the contents of the solicitation documents, the following items listed by descending order shall prevail:

- Addendums to the solicitation
- Solicitation
  - Schedule of Prices
  - Specifications
  - Plans and Drawings
- Supplemental Terms and Conditions
- Standard Terms and Conditions

(Example - if a statement in the specifications contradicts a statement in the Standard Terms and Conditions, the statement in the specifications shall apply)

**Preparation of Solicitation Response:** All responses must clearly address all aspects of the solicitation. Responses must be typed or completed in ink and submitted on the forms supplied by the Iowa DOT.

**Responses must be signed and received prior to the opening date and time indicated on the Solicitation Response page or other specified areas throughout the solicitation document. The Responder's signed, submitted Response shall become the official response to be considered for award.**

**No email, fax or web link Responses will be accepted. Responses must be signed, sealed and delivered in person or by a mail courier that ensures timely delivery.**

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**A. Solicitation**

1. **Opening:** The openings of responses are made public and conducted at the Iowa DOT, Ames complex unless otherwise specified. Responses received after the time of the opening will be returned unopened and considered non-compliant.
2. **Communications:** Questions concerning this solicitation should be directed to the purchasing agent listed on the Solicitation Response page. Inquiries can be written, phoned, or faxed. In all cases, written communication will take precedence over verbal communication.
3. **Proposal Guaranty:** If required, the Solicitation Response page will indicate the fixed percent of the security based on the cost of the Response. Security can be supplied in one of the following ways: **(1)** Certified check or credit union certified share draft, cashier's check, or bank draft, drawn on a solvent bank or credit union. Certified checks and certified share drafts shall be drawn and endorsed in the amount indicated. Checks or drafts shall be made payable either to the Iowa Department of Transportation (Iowa DOT) or to the Responder. If payable to the Responder, the check or draft shall be endorsed without qualifications to the Iowa DOT by the Responder or an authorized agent. **(2)** An insurance or surety company may be retained for the purposes of providing a bond as required by the solicitation. If a Bid Bond is chosen as the method of security, the Iowa DOT's Bid Bond form 131084 must be used and submitted with the solicitation response to be considered for award. **No other forms will be accepted.**

4. **Pricing and Discount:** Unit prices shown in the response shall be quoted as the price per unit (e.g., gal., case, each, etc.) as requested in the solicitation. If there is a discrepancy between the unit prices, extended price, or total amount of response, the unit prices shall prevail. Unless otherwise indicated, prices shall be firm for the duration of the contract or purchase order. Discounts for early payment are allowed, but not considered in award of the contract.
5. **Acceptance/Rejection:** The Iowa DOT reserves the right to accept or reject any or all responses and to waive irregularities or technicalities, provided such waiver does not substantially change the offer or provide a competitive advantage to any supplier(s) or provider. The Iowa DOT also reserves the right to accept that response which is deemed to be in the best interests of the state. Any unauthorized changes, additions, or conditional response including any ties to another response or any reservations about accepting an award or entering into a contract, may result in rejection of the response. Responses must remain available for award for thirty (30) days from opening date and time.
6. **Results & Disclosure:** Tabulation results will be posted on the Iowa DOT website at [www.iowadot.gov/purchasing](http://www.iowadot.gov/purchasing) under the "Award" link referencing the proposal number with an award recommendation indicated. At the conclusion of the selection process, the contents of all received responses will be placed in the public domain and be open to inspection by interested parties, according to state law. Trade secrets or proprietary information that are recognized as such and are protected by law may be withheld if clearly identified as such in the Response.
7. **Quality of Goods:** All material shall be new and of first quality. Items which are used, demonstrators, refurbished, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the Iowa DOT.
8. **Recycled Content:** The Iowa Code encourages purchase of products and materials with recycled content, including but not limited to paper products, oils, plastic products, compost materials, aggregate, solvents, and rubber products. Recycled items or alternatives must be noted in the Solicitation Response, if known.
9. **Shipping Terms:** Deliveries shall be F.O.B. Destination unless otherwise specified. All deliveries shall be accompanied by a packing slip indicating the Supplier, quantities shipped, and the purchase order number(s). All delivery charges shall be included in the response price and paid by the Supplier. No collect C.O.D. deliveries shall be accepted. When entering into a contract, the Supplier shall notify the freight company that all freight and delivery charges are to be prepaid by the Supplier. Goods delivered to the Iowa DOT Distribution Center at 931 S. 4<sup>th</sup> Street, Ames, IA shall be received between the hours of 7:00 a.m. and 3:00 p.m. on any day except Saturday, Sunday, or a holiday. For deliveries to other Iowa DOT locations, the Supplier may contact the destination location for available times to deliver as not all Iowa DOT locations have the same business hours. The Iowa DOT will not be liable for any freight claims or unpaid freight bills arising from contract or purchase order issues.

## B. Award

The binding agreement (award) may be issued in the form a purchase order or contract or both depending on the requirements and complexity of the agreement.

1. **Method of Award:** Award shall be made to the responsible, responsive Responder whose Response meets the requirements of the solicitation and is the most advantageous to the Iowa DOT. An Iowa company or individual will be given preference over an out-of-state company or individual when responses are equal in all aspects and are tied in price. By virtue of statutory authority preference will be given to products and provisions grown and coal produced within the State of Iowa.
2. **Award Protests:** Protests of award recommendations are to be addressed to the Director of Purchasing, and shall be made in accordance with paragraph 761--20.4(6)" e" of the Iowa Administrative Code.
3. **Contracts:** Successful Contractor(s) may be sent either a formal Contract, Notification of Award or Purchase Order as confirmation of acceptance and award. Any of these binding agreements shall be for the term stated in the solicitation or on a purchase order and may be renewed for additional period(s) under the same terms and conditions upon mutual agreement. The successful Contractor may not assign a contract to another party without written authorization from the Iowa DOT Purchasing Section. The Iowa DOT may offer a contract extension to the Contractor when a scheduled target date cannot be met.

4. **Consumer Price Index (CPI-U):** A CPI may be allowed as specified in the terms of the solicitation and at the discretion of the Iowa DOT based on currently posted CPI-U, US City Average, All Items – non seasonally adjusted (NSA) unless otherwise specified. This applies each of any subsequent renewals, extensions, amendments issued under the contract for the duration of the contract.
5. **Service Animals:** Any contract or purchase order awarded to a contractor that employs persons that utilize service animals shall certify the following:
  1. The service animal has had all legally required shots and immunizations, including, but not limited to, rabies vaccinations and necessary boosters;
  2. The service animal has not ever bitten or otherwise attacked any individual. The animal is not aggressive towards others, and has not shown any aggressive tendencies towards others;
  3. The service animal will be leashed or otherwise restrained at all times while present on Iowa DOT owned property;
  4. The insurance coverage shall include coverage for service animal bites or other injuries caused by such animals;
  5. Indemnification provisions shall hold the Iowa DOT harmless against any claims arising out of or relating in any way to service animal bites or other injuries caused by animals.
6. **Payment Terms:** The Iowa DOT typically pays properly submitted invoices within thirty (30) days of receipt, providing goods and/or services have been successfully delivered, installed or inspected (if required), and accepted. Invoices presented for payment must be only for quantities received by the Iowa DOT and must reference the purchase order number or contract number to be submitted for processing.
7. **Default (Supplier):** Failure of the Supplier to adhere to specified delivery schedules or to promptly replace rejected materials shall render the Supplier liable for all costs in excess of the Response price when alternate procurement is necessary. This shall not be the exclusive remedy and the Iowa DOT reserves the right to pursue other remedies available to it by law or under the terms of the binding agreement.
8. **Default (Contractor):** Failure of a Contractor other than a Supplier to meet any specified project completion deadline shall render the Contractor liable for all costs incurred by the Iowa DOT that were: a) necessary to meet said deadline; or b) necessary to complete said project after said deadline. This shall not be the exclusive remedy and the Iowa DOT reserves the right to pursue other remedies available to it by law or under the terms of the agreement.

### C. General

1. **Administrative Rules:** For additional details on the rules governing the actions of the Iowa DOT Purchasing Section, refer to 761 IAC, Chapter 20, Iowa Administrative Code, entitled “Procurement of Equipment, Materials, Supplies and Services”.
2. **Affirmative Action:** The Contractor (and also subcontractor, vendor, service provider or supplier) is prohibited from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the Iowa Department of Management, pertaining to equal employment opportunity and affirmative action. Contractor may be required to have on file a copy of their affirmative action program, containing goal and time specifications. Contractors doing business with Iowa in excess of \$5,000 annually and employing 50 or more full time employees may be required to file with the Iowa Department of Management a copy of their affirmative action plan. Failure to fulfill these non-discrimination requirements may cause the contract to be canceled and the contractor declared ineligible for future state contracts or subject to other sanctions as provided by law or rule.
3. **Applicable Law:** The contract shall be governed under the laws of the State of Iowa. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of a contract and which in any manner affect the work or its conduct. Any legal action relating to a contract shall only be commenced in the Story County, Iowa, District Court or the United States District Court for the Southern District of Iowa.
4. **Conflict of Interest:** No state or county official or employee, elective or appointive shall be directly or indirectly interested in any contract issued by the Iowa DOT, see Code of Iowa 314.2.
5. **Debarment and Vendor Suspension:** By submitting a response, the contractor is certifying that it and its principals and/or subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the State of Iowa or any Federal department or agency.
6. **Equal Opportunity:** Responders to the solicitation must be an “Equal Opportunity Employer” as defined in the Civil Rights Act of 1964 and in Iowa Executive Order Number Thirty-four.

7. **Indemnification-Goods:** To the extent the goods are not manufactured in accordance with Iowa DOT's designs, Supplier shall defend, indemnify and hold harmless Iowa DOT, its assignees, and other users of the goods from and against any claim of infringement of any letters patent, trade names, trademarks, copyright or trade secrets by reason of sale or use of any articles purchased. Iowa DOT shall promptly notify Supplier of any such claim.
8. **Indemnification-Services:** The Supplier of services identified herein shall defend, indemnify and hold harmless Iowa DOT, the State of Iowa, its employees, agents and officials, from and against all claims of any kind arising out of or relating in any way to the services provided to Iowa DOT by said Supplier of services. Iowa DOT shall promptly notify Supplier of any such claim.
9. **Infringement:** Goods shall be delivered free of the rightful claim of any third party by way of infringement. Contractor shall indemnify and save harmless the State of Iowa and the Iowa DOT against all claims for infringement of, and/or royalties claimed under, patents or copyrights on materials and equipment furnished under this solicitation.
10. **Iowa Open Records Law:** All Solicitation Responses are subject to terms and provisions of Iowa Code Chapter 22 Examination of Public Records (Open Records), specifically 22.7-Confidential Records.
11. **Records Audit:** The contractor agrees that the Auditor of the State of Iowa or any authorized representative of the state, and where federal funds are involved, the Comptroller General of the U.S. Government, shall have access to and the right to examine, audit, excerpt, and transcribe any directly pertinent books, documents, papers, and records of the contractor relating to orders, invoices, or payments of a contract or purchase order.
12. **Targeted Small Businesses:** The Iowa DOT seeks to provide opportunities for women and/or minority small business enterprises. To apply for certification as an Iowa Targeted Small Business, contact the Iowa Department of Inspection and Appeals (515-281-5796). Contractors shall take documented steps to encourage participation from Targeted Small Businesses for the purpose of subcontracting and supplying of goods or services or both.
13. **Taxes:** Prices quoted shall not include state or federal taxes from which the state is exempt. Exemption certificates will be furnished upon request.
14. **Termination:**
  - **Termination Due to Lack of Funds or Change in Law**

The Iowa DOT shall have the right to terminate this Contract without penalty by giving thirty (30) days written notice to the vendor as a result of any of the following:

    - Adequate funds are not appropriated or granted to allow the Iowa DOT to operate as required and to fulfill its obligations under contract.
    - Funds are de-appropriated or not allocated or if funds needed by the Iowa DOT, at the Iowa DOT's sole discretion, are insufficient for any reason.
    - The Iowa DOT's authorization to operate is withdrawn or there is a material alteration in the programs administered by the Iowa DOT.
    - The Iowa DOT's duties are substantially modified.

Following a 30-day written notice, the Iowa DOT may terminate a binding agreement in whole or in part without the payment of any penalty or incurring any further obligation to the Responder. Following termination upon notice, the Responder shall be entitled to compensation upon submission of invoices and proper proof of claim for goods and services under contract up to and including the date of termination.



Response Due Date 5/29/2019		Time 1:00 PM	Location 800 Lincoln Way, Ames, IA	
Proposal Number 22003	Description One-Call Services			
Contract Begin Date 7/1/2019	Contract Completion Date 6/30/2021	Bid Bond NA	Performance Bond (Y/N) N	Liquidated Damages \$0.00
Purchasing Agent Assigned Jean Gustafson	E-Mail Address jean.gustafson@iowadot.us	Phone 515-239-1173	Fax 515-239-1538	

RESPONDER INFORMATION				
Company Name			Federal Tax ID	
Street Address		City	State	Zip Code
Contact Name	E-Mail Address		Phone	Fax
Responder agrees to sell goods/services or both at the same prices, terms and condition to any other Iowa state agency, Regent or Political Subdivision upon request. Please check Yes or No. <input type="checkbox"/> YES <input type="checkbox"/> NO			Responder is an Iowa Targeted Small Business? <input type="checkbox"/> YES <input type="checkbox"/> NO	

## GENERAL INFORMATION

This solicitation includes the Solicitation Response cover page, Schedule of Prices, Standard Terms and Conditions, Supplemental terms (if any), Specifications, Plans and Drawings, mailing label and all other information needed to prepare and submit a response to the solicitation. Information in the "Solicitation Response" above must be typed or completed in ink, signed, and returned in a flat style envelope along with any other information required in the solicitation prior to the response due date and time. Please use the furnished mailing label, or label the response as "Iowa Department of Transportation, proposal number and response due date on the outside of the return envelope. Responders may personally deliver, mail, or select a carrier that ensures timely delivery. **Faxed or e-mail responses will not be accepted.**

If required, each response must be accompanied by a bid bond in an accepted form, in the percent amount indicated above. Refer to the Standard Terms and Conditions for the accepted forms in which the bid bond requirement may be fulfilled. **Responses without a required bid bond will not be considered for award.** If the intended awarded responder fails to enter into a formal contract within fifteen (15) days after award is made for any reason on their part, the bid bond may be retained by the State. The entire contents of this solicitation, Addendums, Schedule of Prices, Specifications, Plans and Drawings, Supplemental Terms and Conditions, Standard Terms and Conditions, shall become part of the contract.

*We certify that:*

*-We have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a response; that this response has been independently arrived at without collusion with any other responder, competitor, or potential competitor; and that this response has not been knowingly disclosed prior to the opening of responses to any other responder or competitor.*

*-All materials, equipment goods and/or services proposed meet or exceed the specifications and will be supplied in accordance with the entire contents of this solicitation including delivery schedules.*

*-No relationship exists or will exist during the contract period between the Contractor and the Iowa DOT or any Participating Agencies that interferes with fair competition or constitutes a conflict of interest.*

*We promise to complete the contract within the contract period, or pay any liquidated damages, if stipulated, for each calendar day as set forth in the solicitation documents.*

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## Schedule Of Prices

Number 22003

Date Required 05/29/2019 1:00 PM

Title One-Call Services

Delivery Location AMES, IA 50010

Shipping Terms FOB Destination/Freight Prepaid

Vendor

PA Name Jean Gustafson

Phone 515-239-1173

E-Mail jean.gustafson@iowadot.us

Description

Product Availability Days: \_\_\_\_\_

All items must be bid.

Item	Qty	Unit	Description	Part #	Unit Price	Total Price
1	1	SVC	Normal Locate			
Comments:						
2	1	SVC	Emergency Locate			
Comments:						
3	1	L <sup>a</sup> ^æ F[[ c	DOT requested Locate up to 5 miles			
Comments:						
4	1	L <sup>a</sup> ^æ F[[ c	DOT requested Locate over 5 miles per fair market price			
Comments:						

I HEREBY CERTIFY THAT THIS PROPOSAL MEETS OR EXCEEDS THE MINIMUM REQUIREMENT INCLUDING SPECIFICATIONS AND ADDENDUMS.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Section 1 Introduction

### 1.1 Purpose & Overview of the RFB Process

The purpose of this Request for Bid (RFB) is to solicit Bid Responses from responsible, responsive Bidders to provide the goods and/or services identified on the RFB cover page and described further in Section 3 of this RFB. The Iowa DOT intends to award a contract(s) beginning and ending on the dates listed on the Procurement Timetable. The Iowa DOT may renew the contract(s) for up to the number of annual renewals identified on the Procurement Timetable at the sole discretion of the Iowa DOT. Any contract(s) resulting from the RFB shall not be an exclusive contract.

Bidders will be required to submit Bid Responses according to the Procurement Timetable. The Iowa DOT will evaluate all responsible Bidders that submit timely responsive Bid Responses to be considered for award.

### 1.2 Definitions

The terms used in individual sections of this document are intended to be consistent with those commonly used in the application field in question. When responding, use the terms and acronyms used in this document, and define any terms or conditions that require further clarification.

**1.2.1 “Bid Response”** means the bid document submitted by the bidder in response to the RFB.

**1.2.2 “Responsive Bid”** means the bid document complies with each of the provisions of the RFB.

**1.2.3 “Contract” or “Resulting Contract”** means the contract(s) entered into with the successful Bidder(s) as described in section 4.

**1.2.4 “Bidder”** means individual, company or entity submitting a response in response to the RFB.

**1.2.5 “Iowa DOT”** means the Iowa Department of Transportation.

**1.2.6 “Participating Agency” or “Participating Agencies”** means the all state boards, and commissions, and any political subdivisions as identified on the RFB cover sheet as Participating Agencies and any other agency that decides to utilize the executed contract.

**1.2.7 “Procurement Timetable”** (*on the page immediately following the RFB cover*) provide timeline, event and date information.

**1.2.8 “Purchase Order”** means the documentation issued by the State to the Bidder for a purchase of goods and/or services in accordance with the terms and conditions of the Contract. It may include an identification of the items to be purchased, the delivery date and location, the address where the supplier should submit the invoices, and any other requirements deemed necessary by the State. Any preprinted contract terms and conditions included on Bidder’s forms or invoices shall be null and void.

**1.2.9 “Responsible Bidder”** means a bidder that has the capability in all respects to perform the requirements of the solicitation specifications. In determining whether a Bidder is a responsible, responsive Bidder, the Iowa DOT may consider various factors including, but not limited to, the Bidder’s competence and qualifications to provide the goods or services requested, the Bidder’s integrity and reliability, the past performance of the Bidder relative to the quality of the goods or services offered by

the Bidder, the proposed terms of delivery, and the best interest of the Iowa DOT and Participating Agencies.

**1.2.10 “RFB”** means Request for Bid and any attachments, exhibits, schedules or addenda hereto. A written response by a Bidder shall be considered a bid and referred to as a Bid Response.

**1.2.11 “State”** means the Iowa DOT, State of Iowa, and Participating Agencies identified on the title page and all state agencies, boards, and commissions, and any political subdivisions making purchases off of the resulting Contract as permitted by this RFB.

**1.2.12 “Subcontractor”** Includes every person furnishing material, equipment or performing labor as a sublet of any part of contract.

### **1.3 General**

#### **1.3.1 Owner:**

The Owner of these projects is the Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

### **1.4 Bidding Documents**

#### **1.4.1 Addenda**

- Addenda, if issued, will be posted to the Iowa DOT’s website. All addendums must be acknowledged by bidders and included in the Bid Response.
- All addenda so issued shall become part of the contract documents.

#### **1.4.2 Withdrawal Period**

Prime Contractors, subcontractors and material suppliers on these projects agree to guarantee their proposal costs and work to be performed for a period of thirty (30) days after the date of receipt of bids.

## Section 2 Administrative Information

### 2.1 Issuing Agent

The Issuing Agent, identified on the cover page is the sole point of contact regarding the RFB from the date of issuance until the notice of intent to award is issued (selection of the successful contractor).

### 2.2 Restriction on Communication

From the issue date of this RFB until the notice of intent to award is issued (announcement of the successful bidder), bidders may contact only the Issuing Agent.

The Issuing Agent will respond only to questions regarding the procurement process. Questions related to the interpretation of this RFB must be submitted in writing to the Issuing Officer by the deadline found in the Procurement Timetable listed immediately after the cover sheet. Verbal questions related to the interpretation of this RFB will not be accepted. Questions related to the interpretation of this RFB must be submitted as provided in section 2.5. Bidders may be disqualified if they contact any state employee other than the Issuing Agent. *Exception: Bidders may contact the State Targeted Small Business Office on issues related to the preference for Targeted Small Businesses.*

In NO CASE shall verbal communication override written communications. Only written communications are binding on the State.

The Iowa DOT assumes no responsibility for representations concerning conditions made by its officers or employees prior to the execution of a contract, unless such representations are specifically incorporated into this RFB. Verbal discussions pertaining to modifications or clarifications of this RFB shall not be considered part of the RFB unless confirmed in writing. All such requests for clarification shall be submitted in writing. Any information provided by the Bidder verbally shall not be considered part of that Bidder's proposal. Only written communications from the Bidder and received by the Department shall be accepted.

With the exception of the written Bid Response which must be submitted by Bidders in accordance with Section 2 herein, communications between the Issuing Agent and Bidders may be conducted by regular prepaid US mail, courier service, e-mail or facsimile transmission.

### 2.3 Downloading the RFB from the Internet

All correspondence for this solicitation will be posted on the Iowa DOT's website at <http://www.iowadot.gov/purchasing/lettingschedule.htm>. **Bidders are required** to visit the Iowa DOT's home page periodically for any and all addendums or other pertinent information regarding this bid opportunity.

### 2.4 Procurement Timetable

The dates listed in the Procurement Timetable (on the page immediately following the RFB cover) are set forth for informational and planning purposes; however, the Iowa DOT reserves the right to change the dates. If a change is made to any of the deadlines for Bidder submission, the Iowa DOT will issue an addendum to the RFB. All times listed are Central Times.

## 2.5 Questions, Requests for Clarification, and Suggested Changes

Bidders are invited to submit written questions and requests for clarifications regarding the RFB during the time indicated in the Procurement Timetable. Bidders may also submit suggestions for changes to the requirements of this RFB. The questions, requests for clarifications or suggestions must be in writing and received by the Issuing Agent on or before the deadline stated in the Procurement Timetable. Oral questions will not be permitted. If the questions, requests for clarifications, or suggestions pertain to a specific section of the RFB must be referenced.

Written responses to questions, requests for clarifications or suggestions will be posted on or before the deadline stated in the Procurement Timetable and posted on the Iowa DOT's website (see Section 2.3) If the Iowa DOT decides to adopt a suggestion, the Iowa DOT will issue an addendum to the RFB.

The Iowa DOT assumes no responsibility for verbal representations made by its officers or employees unless such representations are confirmed in writing and incorporated into the RFB.

Each bidder must inform themselves fully of the conditions relating to the proposal. Failure to do so will not relieve a successful bidder of their obligation to furnish all services required to carry out the provisions of his contract. Insofar, as possible, the Bidder, in carrying out the work, must employ such methods or means as will not cause any interruption of, or interference with the work of any other Bidder.

If a bidder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFB, the bidder should immediately notify the Issuing Agent in writing of such error and request modification or clarification of the RFB document.

## 2.6 Revisions to Bidder Bid Response

Bidders who submit Bid Responses in advance of the bid opening date may withdraw, modify, and resubmit their Response at any time prior to the bid opening date and time. Bidders must notify the Issuing Agent in writing if they wish to withdraw their Bid Response. A Bidder shall not withdraw its Bid Response or its prices prior to the end of the one hundred and eighty (180) day period immediately following the notice of intent to award a contract.

## 2.7 Submission of Bid Responses

The Iowa DOT must receive Bid Responses addressed to the Department of Transportation, Purchasing Section, 800 Lincoln Way, Ames, Iowa 50010 before the deadline stated in the Procurement Timetable. **This is a mandatory requirement and will not be waived by the Iowa DOT.** Any Bid Response received after this deadline will be rejected and returned unopened to the Bidder.

Bidders mailing Bid Responses must allow ample mail delivery time to ensure receipt by the Iowa DOT on or before the due date. Postmarking by the due date will not substitute for actual receipt of the Bid Response.

**Electronic mail and faxed Bid Responses will not be accepted.**

Bidders must furnish all information necessary to evaluate the Bid Response. Bid Responses that fail to meet the mandatory requirements of the RFB will be disqualified. Verbal information provided by the Bidder shall not be considered part of the Bidder's Bid Response.

## **2.8 Bid Response Date**

The Iowa DOT will open Bid Responses on the date and time stated in the Procurement Timetable. A bid tabulation will be posted on the Iowa DOT's website for all bidders to view the results in the form of "Recommendation to Award". (See Iowa Code Section 72.3.)

The responses of the Bidders who submit compliant Bid Responses within the time frame permitted will be available for public review after the contract has been awarded.

## **2.9 Costs of Preparing the Bid Response**

The costs of preparation and delivery of a Bid Response are solely the responsibility of the Bidder.

No payments shall be made by the State to cover costs incurred by any Bidder in the preparation of or the submission of this RFB or any other associated costs.

## **2.10 Reasonable Accommodations**

Upon request, the Iowa DOT will provide reasonable accommodations, including the provision of informational material in an alternative format, for individuals with disabilities. If accommodations are required at time of a bid opening, contact the Issuing Agent designated on the cover page.

## **2.11 Rejection of Bid Responses**

The Iowa DOT reserves the right to reject any or all Bid Responses, in whole or in part, received in response to this RFB at any time prior to the execution of a written contract. Issuance of this RFB in no way constitutes a commitment by the Iowa DOT to award a contract. This RFB is designed to provide Bidders with the information necessary to prepare a competitive Bid Response. This RFB process is for the Iowa DOT benefit and is intended to provide the Iowa DOT with competitive information to assist in the selection of a Bidder to provide services.

It is not intended to be comprehensive and each Bidder is responsible for determining all factors necessary for submission of a comprehensive Bid Response.

The Iowa DOT reserves the right to negotiate the terms of the contract, including the award amount, with the awarded Bidder prior to entering into a contract. If contract negotiations cannot be concluded successfully, the Iowa DOT reserves the right to negotiate a contract with the next lowest Bidder.

## **2.12 Disqualification**

The Iowa DOT may reject outright and shall not evaluate proposals for any one of the following reasons:

**2.12.1** The Bidder states that a requirement of the RFB cannot be met.

**2.12.2** The Bidder's Bid Response materially changes a requirement of the RFB or the Bid Response is not compliant with the requirements of the RFB.

**2.12.3** The Bidder's response limits the rights of the Iowa DOT.

**2.12.4** The Bidder fails to include a Proposal Guarantee also known as bid security, *if required*. See Bid Response cover page and **Section 2.33**.

**2.12.5** The Bidder fails to include any signature, certification, authorization, stipulation, disclosure or guarantee (if required).

**2.12.6** The Bidder presents the information requested by this RFB in a format inconsistent with the instructions of the RFB or otherwise fails to comply with the requirements of this RFB.

**2.12.7** The Bidder initiates unauthorized contact regarding the RFB with state employees.

**2.12.8** The Bidder provides misleading or inaccurate responses.

**2.12.9** The Bidder fails to attend the mandatory Bidders Conference or Pre-Bid meeting.

**2.12.10** The Bidder's Bid Response is materially unbalanced.

**2.12.11** There is insufficient evidence (including evidence submitted by the Bidder and evidence obtained by the Iowa DOT from other sources) to satisfy the Iowa DOT that the Bidder is a "Responsible Bidder".

**2.12.12** The Bidder alters the solicitation language in any way.

### **2.13 Nonmaterial and Material Variances**

The Iowa DOT reserves the right to waive or permit cure of nonmaterial variances in the Bidder's Bid Response if, in the judgment of the Iowa DOT, it is in the Iowa DOT best interest to do so. Nonmaterial variances include minor informalities that do not affect responsiveness; that are merely a matter of form or format; that do not change the relative standing or otherwise prejudice other Bidders; that do not change the meaning or scope of the RFB; or that do not reflect a material change in the services. In the event the Iowa DOT waives or permits cure of nonmaterial variances, such waiver or cure will not modify the RFB requirements or excuse the Bidder from full compliance with RFB specifications or other contract requirements if the Bidder is awarded the contract. The determination of materiality is in the sole discretion of the Iowa DOT.

### **2.14 Reference Checks**

The Iowa DOT reserves the right to contact any reference to assist in the evaluation of the Bid Response, to verify information contained in the Bid Response and to discuss the Bidder's qualifications and the qualifications of any subcontractor identified in the bidders Bid Response.

### **2.15 Information From Other Sources**

The Iowa DOT reserves the right to obtain and consider information from other sources concerning a Bidder, such as the Bidder's capability and performance under other contracts, the qualifications of any subcontractor identified in the Bidder's Bid Response, specifically, the Bidder's financial stability, past or pending litigation, and publicly available information.

### **2.16 Verification of Bid Response Contents**

The content of a Bid Response submitted by a Bidder is subject to verification. Misleading or inaccurate responses shall result in disqualification and rejection of the Bid Response.

**2.17 Bid Response Clarification Process** The Iowa DOT reserves the right to contact a Bidder after the submission of Bid Response for the purpose of clarification to ensure mutual understanding.

This contact may include written questions, interviews, site visits, a review of past performance if the Bidder has provided goods or services to the Iowa DOT or any other political subdivision wherever located, or requests for corrective pages in the

Bidder's Bid Response. The Iowa DOT will not consider information received if the information materially alters the content of this solicitation or alters the type of goods and services the Bidder is offering to the Iowa DOT. An individual authorized to legally bind the Bidder shall sign responses to any request for clarification. Responses shall be submitted to the Iowa DOT within the time specified in the Iowa DOT request. Failure to comply with requests for additional information may result in rejection of the Bid Response as non-compliant.

#### **2.18 Disposition of Bid Responses**

At the conclusion of the selection process, the contents of all Bid Responses will be in the public domain and be open to inspection by interested parties except for information for which Bidder properly requests confidential treatment or is subject to exceptions provided in Iowa Code Chapter 22 or other applicable law.

#### **2.19 Public Records and Requests for Confidential Treatment**

The Iowa DOT may treat all information submitted by a Bidder as public information following the conclusion of the Intent to Award. Iowa DOT release of information is governed by Iowa Code chapter 22. Bidders are encouraged to familiarize themselves with chapter 22 before submitting a Bid Response. The Iowa DOT will copy and produce public records as required to comply with the public records laws.

#### **2.20 Release of Claims**

By submitting a Bid Response, the Bidder agrees that it will not bring any claim or cause of action against the Iowa DOT based on any misunderstanding concerning the information provided herein or concerning the Iowa DOT failure, negligent or otherwise, to provide the Bidder with pertinent information as intended by this RFB.

#### **2.21 Award Notice and Acceptance Period**

Notice of intent to award will be posted on the Iowa DOT's website at [www.iowadot.gov/purchasing/bidaward](http://www.iowadot.gov/purchasing/bidaward). Final negotiation and execution of the contract(s) shall be completed no later than thirty (30) days from the date of the Notice of Intent to Award or such other time as designated by the Iowa DOT.

If the successful Bidder fails to negotiate and deliver an executed contract by that date, the Iowa DOT in its sole discretion may cancel the award and redirect the contract to the next lowest bidder meeting the specifications.

#### **2.22 No Contract Rights until Execution**

The full execution of a written contract shall constitute the making of a contract for services and no Bidder shall acquire any legal or equitable rights relative to the contract services until the contract has been fully executed by the successful Bidder and the Iowa DOT.

#### **2.23 Restrictions on Gifts and Activities**

Iowa Code Chapter 68B restricts gifts which may be given or received by state employees and requires certain individuals to disclose information concerning their activities with state government. Bidders are responsible to determine the applicability of this Chapter to their activities and to comply with the requirements. In addition, pursuant to Iowa Code section 722.1, it is a felony offense to bribe or attempt to bribe a public official.

*The laws of Iowa provide that it is a felony to offer, promise, or give anything of value or benefit to a state employee with the intent to influence that employee's acts, opinion, judgment or exercise of discretion with respect to that employee's duties. Evidence of violations of this statute will be submitted to the proper prosecuting attorney.*



## **2.24 No Minimum Guaranteed**

The Iowa DOT anticipates that the selected Bidder will provide services as requested by the Iowa DOT. The Iowa DOT will not guarantee any minimum compensation will be paid to the Bidder or any minimum usage of the Bidder's services.

## **2.25 Conflicts Between Terms**

The Iowa DOT reserves the right to accept or reject any exception taken by the Bidder to the terms and conditions contained in this RFB. Should the Bidder take exception to the terms and conditions required by the Iowa DOT, the Bidder's exceptions may be rejected and the entire proposal declared nonresponsive. The Iowa DOT may elect to negotiate with the Bidder regarding contract terms that do not materially alter the substantive requirements of the request for proposals or the contents of the Bidder's Bid Response.

## **2.26 News Releases**

No news releases or other materials pertaining to this procurement, or any part of this proposal, will be made available to the media or the public, the Bidder's clients or potential clients without the prior written approval of the Iowa DOT.

## **2.27 Pre-Bid Conference**

If the Procurement Timetable indicates a Bidder's Pre-Bid Conference will be held in conjunction with this RFB, it will be held at the date, time, and location listed on the Procurement Timetable immediately following the cover page. If Attendance at the Bidder's Pre-Bid Conference is a mandatory requirement to submit a Bid Response, it will be indicated on the Procurement Timetable. The purpose of the Pre-Bid conference is to discuss with prospective Bidders the work to be performed and allow prospective Bidders an opportunity to ask questions regarding the RFB. Verbal discussions at the Pre-Bid conference shall not be considered part of the RFB unless confirmed in writing by the Iowa DOT and incorporated into this RFB. The conference may be recorded. Questions asked at the conference that cannot be adequately answered during the conference may be deferred.

A copy of the questions and answers will be posted on the DOT website for viewing.

In an effort to seek competitive bids the DOT reserves the right to schedule a second pre-bid meeting in the event only one or no vendors are in attendance at the scheduled mandatory pre-bid. The Potential bidder in attendance at the scheduled pre-bid will not be required but is welcome to attend the second pre-bid if they choose.

## **2.28 Contractors Responsibilities**

### **2.28.1 Codes, Laws and Regulations**

The laws of the State of Iowa in relation to and pertaining to public improvements shall apply to these projects. All construction, materials and methods shall comply with the State and Local Building Codes and with Local Ordinances, except where plans and specifications establish a higher standard.

### **2.28.2 Licenses, Permits and Inspections**

The Bidders shall comply with all codes, laws, ordinances, rules and regulations of any public authority having jurisdiction that bears on the performance of its work. Bidders shall pay for all licenses, permits and inspection fees required for its work. Bidders must furnish copies of all approved inspection certificates and approvals from authorities having jurisdiction in a timely fashion upon completion of the work.

## **2.29 Consideration of Bids**

### **2.29.1 Rejection of Bids**

The Iowa DOT reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Iowa DOT that such bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.

Conditional bids will not be accepted.

### **2.29.2 Qualification of Bidder**

The Iowa DOT may make such investigations as they deem necessary to determine the ability of the Bidder to perform the required work, and the bidder shall furnish to the Iowa DOT all such information and data for this purpose as the Iowa DOT may request.

## Section 3 General Requirements

### 3.1 Scope of Work

Successful Bidder shall be required to receive and respond to all 811 excavation notices directed to Iowa DOT through the 811 One-Call Center in accordance with current State Laws.

### 3.2 Contractor's Duties and Responsibilities

The contractor shall provide such markings and protection as may be required. Such protection shall include painting, flagging that has company name and phone number in accordance with the current State Laws governing the protection of underground utilities and Iowa DOT's specifications. The contractor shall perform additional services, such as standby protection and DOT requested locates.

- Standby protection, will require the contractor to arrange meetings with the excavator prior to excavation and have excavator hand digging the location of Iowa DOT facility's.
- DOT requested locates, are for recording the location of previously unknown or un-locatable buried utilities (including new builds and existing systems). This can include collecting the GPS coordinates for handholes, splices, of both power and communication cable.

Provide sufficient references, company overview, sample of an itemized invoice, qualified staff, equipment and supplies to perform the duties outlined in this solicitation.

Receive and record locate requests from the One-Call center during normal business hours of the One-Call center and respond within required time frame.

Normal business hours 6:00 a.m. to 6:00 p.m. Monday through Friday, except for holidays observed by the IA811 One-Call Center and weekends. Contractors' administrative responsibility shall include, but not limited to, receipt, recording, dispatching, reporting, monitoring and closing out of notice of excavation.

Complete the requirements of a normal locate request within 48 hours of receiving the locate request in accordance to state law.

Receive and record emergency locate requests outside normal business hours and respond within two hours of the original call. Receive and respond to emergency locate requests during normal business hours within two hours of receipt by the contractor, or sooner as required by law, regulation or agreed upon with requesting party or excavator.

Normal business hours emergency locate requests will be billed as a standard itemized ticket.

Digitally photograph all completed locate requests. That is attainable by authorized Iowa DOT employees at any time. Photos must be maintained for six years from the date of notice

If any damages occur whether at fault or not at fault, contractor is to return to site and take photos of said damage.

Provide the Iowa DOT electronic direct access to Contractors ticket management system. The Iowa DOT requires the ability to view at the Iowa DOT discretion by way of a secured "Customer Portal" on the contractor's internet website the ability to view:

- All tickets that are received "Real-Time" as tickets are received through the 811 One-Call systems on the Iowa DOT's behalf.
- If locate is still open or completed.
- All post-locate photos attached to the ticket number and viewable by next business day that the locate has been completed.
- All archived 811 ticket information and locate photos.

If contractor responds on site to 811 locate request locations and leaves a positive response that locating company has responded on Iowa DOT's behalf. Contractor is to post a locate photo of worksite and of positive response left to the secured "Customer Portal".

Retain and safeguard the Iowa DOT location maps and records. Records are not to be disclosed or made available to any person or company not approved by the Iowa DOT.

Responsible for obtaining all licenses, permits, inspections and other authorizations required for contractor's performance of the locate services.

Provide all circuits and equipment required to receive requests directly from the 811 One-Call Center on behalf of the Iowa DOT. Shall be responsible for all other contractual and cost obligations from the 811 One-Call Center.

Personnel shall be proficient in the use of approved locating devices, methods, marking procedures, communication skills and record-keeping requirements necessary to perform the locate request and marking tasks.

Contractor must have the ability to locate and work in the entirety of the state of Iowa and within 15 miles of the state line in the surrounding states of Missouri, Illinois, Wisconsin, Minnesota, South Dakota, and Nebraska.

When the underground utilities are "identifiable, but un-locatable", the contractor must contact the Iowa DOT that will then determine the course of action to be taken.

If no course of action is successful, the contractor shall notify the excavator of the presence of any "identified, but un-locatable" Utilities of Iowa DOT and shall caution the excavator that any location information supplied may not meet the definition of reasonable accuracy.

### **3.3 DOT Responsibility**

Iowa DOT will assign a project manager to be the DOT's contact for this contract.

### **3.4 Bidder's Response should include:**

- Signed Solicitation Response Page
- Schedule of Prices
- Detailed work plan.
- Company overview showing similar work experience and a list of staff and their qualifications.
- List of equipment and supplies that will be used to perform these services.
- Provide a sample of an itemized invoice.
- List of three references and their contact information. Iowa DOT may contact these references to verify bidder can provide all services as specified.

## Section 4 Contract Terms & Conditions

### 4.1 Contract Award

It is the intent of the Iowa DOT to award the contract to the responsible bidder whose submitted response is the most advantageous to the Iowa DOT, cost and other factors considered. Other factors include but are not limited to: meeting or exceeding mandatory requirements, proposed staffing, experience, and meeting required time schedule.

### 4.2 Contract Period

The term of the Contract will begin and end on the dates indicated in the RFB Procurement Timetable, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Iowa DOT shall have the sole option to renew the Contract for up to the number of annual renewals specified on the Procurement Timetable.

### 4.3 Contractor Qualification Requirement

Prior to execution of a contract with a contractor, the contractor must qualify to do business with the State of Iowa.

### 4.4 Service Schedule

Upon award of a Contract, the Iowa DOT and the Contractor shall determine the service schedule if not already defined in the requirements section of the RFB.

### 4.5 Scope of Work (Services)

The services to be performed pursuant to and as a result of this contract by the contractor are described in Project Specifications, Section 3, and in the Appendices and are made a part hereof by this reference.

The contractor shall prepare and deliver specifications to the Iowa DOT which will detail the design, technical and functional capabilities, and other attributes related to the project, all as more fully described in Section 3.

**Amendments to Scope of Services and Specifications.** The parties agree that the Scope of Services and the specifications may be revised, replaced, amended or deleted at any time during the term of this Contract to reflect changes in service or performance standards upon the mutual written consent of the parties.

**Industry Standards.** Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and with generally acceptable industry standards of performance for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

As long as the Iowa DOT notifies the contractor promptly of any services performed in violation of this standard, the contractor will re-perform the services, at no cost to Iowa DOT, such that the services are rendered in the above-specified manner.

**Non-Exclusive Rights.** This Contract is not exclusive. The Iowa DOT reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

### 4.6 Labor Regulations

The Contractor shall give all notices and comply with all codes, laws, ordinances, rules and regulations of any public authority having jurisdiction that bears on the performance of its work.

All contractors, before entering into a contract with the Iowa Department of Transportation, must be registered with the Division of Labor in the Workforce Development Department, 515-281-3606 according to chapter 91C, Code 1993.

#### **4.7 Contract Termination**

It is imperative that the contractor consistently provides high quality services. Below are procedures that will be utilized in the event that the contract must be terminated due to the contractor's lack of ability to produce required results:

##### **4.7.1 Immediate Termination by the Iowa DOT**

The Iowa DOT may terminate this contract in writing for any of the following reasons effective immediately without advance notice:

**4.7.1.1** In the event the contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

**4.7.1.2** The Iowa DOT determines that the actions, or failure to act, of the contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a client's life, health or safety to be jeopardized;

**4.7.1.3** The contractor fails to comply with confidentiality laws or provisions;

**4.7.1.4** The contractor furnished any statement, representation or certification in connection with this Contract or the RFB which is materially false, deceptive, incorrect or incomplete

##### **4.7.2 Termination for Cause**

The occurrence of any one or more of the following events shall constitute cause for the Iowa DOT to declare the contractor in default of its obligations under this Contract.

**4.7.2.1** The contractor fails to perform to the Iowa DOT's satisfaction, per Section 3 Project Specification requirements.

**4.7.2.2** The Iowa DOT determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur.

**4.7.2.3** The contractor fails to make substantial and timely progress toward performance and deliverables within the contract.

**4.7.2.4** The contractor consistently misses deadlines agreed upon with the Iowa DOT project managers.

**4.7.2.5** The contractor replaces key personnel with individuals who have less experience, knowledge and skills in the areas of their responsibilities.

**4.7.2.6** The contractor staff's knowledge, skills, and experience are unacceptable to the Iowa DOT and do not reflect what the contractor represented the skill sets of their staff that would be assigned to this engagement.

**4.7.2.7** The contractor's staff turnover is unacceptably high to Iowa DOT.

**4.7.2.8** The contractor fails to effectively manage contractor staff time and/or assignments.



**4.7.2.9** The contractor's quality of work is unacceptable to Iowa DOT (i.e. incorrect results, standards are not followed).

**4.7.2.10** The contractor's quantity of work is unacceptable to Iowa DOT. The contractor fails to perform additional assignments as requested.

**4.7.2.11** The contractor does not respond to critical issues and/or fails to participate in problem resolution when asked. This includes requests for support in the evenings and weekends.

**4.7.2.12** The contractor's deliverable(s) cause a major outage to the Iowa DOT's IT infrastructure.

**4.7.2.13** The contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the contractor terminates or suspends its business; or the Iowa DOT reasonably believes that the contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law.

**4.7.2.14** The contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract.

**4.7.2.15** The contractor has engaged in conduct that has or may expose the Iowa DOT to liability, as determined in the Iowa DOT's sole discretion.

**4.7.2.16** The contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right.

#### **4.7.3 Notice of Default**

If there is a default event caused by the contractor, the Iowa DOT shall provide written notice to the contractor requesting that the breach or noncompliance be remedied within the period of time specified in the Iowa DOT's written notice to the contractor. If the breach or noncompliance is not remedied by the date in the written notice, the Iowa DOT may either:

**4.7.3.1** Immediately terminate the contract without additional written notice.

**4.7.3.2** Enforce the terms and conditions of the contract and seek any legal or equitable remedies.

#### **4.7.4 Termination Upon Notice**

Following 30 days written notice, the Iowa DOT may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the contractor.

Following termination upon notice, the contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to the Iowa DOT up to and including the date of Termination.

#### **4.7.5 Termination Due to Lack of Funds or Change in Law**

The Iowa DOT shall have the right to terminate this Contract without penalty by giving thirty (30) days written notice to the contractor as a result of any of the following:

**4.7.5.1** Adequate funds are not appropriated or granted to allow the Iowa DOT to operate as required and to fulfill its obligations under this Contract.

**4.7.5.2** Funds are de-appropriated or not allocated or if funds needed by the Iowa DOT, at the Iowa DOT's sole discretion, are insufficient for any reason.

**4.7.5.3** The Iowa DOT's authorization to operate is withdrawn or there is a material alteration in the programs administered by the Iowa DOT.

**4.7.5.4** The Iowa DOT's duties are substantially modified.

#### **4.7.6 Remedies of the Contractor in Event of Termination by the Iowa DOT**

In the event of termination of this Contract for any reason by the Iowa DOT, the Iowa DOT shall pay only those amounts, if any, due and owing to the contractor for services actually rendered up to and including the date of termination of the contract and for which the Iowa DOT is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the contractor's claim. This provision in no way limits the remedies available to the Iowa DOT under this Contract in the event of termination. However, the Iowa DOT shall not be liable for any of the following costs:

**4.7.6.1** The payment of unemployment compensation to the contractor's employees.

**4.7.6.2** The payment of workers' compensation claims, which occur during the contract or extend beyond the date on which the contract terminates.

**4.7.6.3** Any costs incurred by the vendor in its performance of the contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the contract.

**4.7.6.4** Any taxes that may be owed by the contractor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

#### **4.7.7 Vendor Termination Duties**

The contractor, upon receipt of notice of termination or upon request of the Iowa DOT, shall:

**4.7.7.1** Cease work under this Contract and take all necessary and appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the contract, including, without limitation, results accomplished, conclusions resulting therein, any other matters the Iowa DOT may require.

**4.7.7.2** Immediately cease using and return to the Iowa DOT any personal property or materials provided by the Iowa DOT to the contractor.

**4.7.7.3** Comply with the Iowa DOT's instructions for the timely Transfer of any active files and work product produced by the contractor under this Contract.

**4.7.7.4** Cooperate in good faith with the Iowa DOT, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

**4.7.7.5** Issue credit to the Iowa DOT for any payments made by the Iowa DOT for services that were inappropriately billed for services that were not rendered by the contractor.

**4.7.7.6** Immediately deliver to the Iowa DOT any and all Deliverables for which the Iowa DOT has made payment (in whole or part) that are in the possession or under the control of the Contractor or its agents or

subcontractors in whatever stage of development and form of recordation such property is expressed or embodied as that time.

#### **4.7.8 Unacceptable Deliverables**

The contractor shall be required to perform the work for each deliverable in accordance with the terms, conditions, and representations of this Contract.

#### **4.8 Contractor(s) Insurance Requirements**

The resulting Contract will require the successful Contractor to maintain insurance coverage(s) of the type and in the amounts set forth below.

- It shall be the Contractor's responsibility to have liability insurance covering all of the project operations incident to contract completion and the Contractor(s) must have on file with the Contracting Authority a current "Certificate of Insurance" prior to award of contract. The certificate shall identify the insurance company firm name and address, contractor firm name, policy period, type of policy, limits of coverage, and scope of work covered (single contract or statewide). This requirement shall apply with equal force, whether the work is performed by persons employed directly by the Contractor(s) including a subcontractor, persons employed by a subcontractor(s), or by an independent contractor(s).
- In addition to the above, the Contracting Authority shall be included as an insured party, or a separate owner's protective policy shall be filed showing the Contracting Authority as an insured party.
- The liability insurance shall be written by an insurance company (or companies) qualified to do business in Iowa. For independent contractors engaged solely in the transportation of materials, the minimum coverage provided by such insurance shall be not less than that required by Chapter 325A, Code of Iowa, for such truck operators or contract carriers as defined therein. For all other contractors, subcontractors, independent contractors, and the Contracting Authority, the minimum coverage by such insurance shall be as follows:
  - Commercial General Liability including Contractual Liability;
  - Contingent Liability; Explosion, Collapse and Underground Drainage
  - Damage; Occurrence Basis Bodily Injury; Broad Form Personal Injury; Broad Form Property Damage.

#### **Bodily Injury**

The contractor will purchase and maintain throughout the term of this contract the following minimum limits and coverage:

• Each person	\$750,000
• Each accident/occurrence	\$750,000
• Workers Compensation	\$750,000
• Statutory Limits	\$750,000
• Employer's liability	\$750,000
• Occupation Disease	\$750,000

#### **Operations**

- Property Damage \$250,000 each occurrence

The Contractor(s) shall require all subcontractor(s) meet the above insurance requirements.

#### **The Certificate of Insurance must include the following;**

- Iowa Department of Transportation must be listed as an additional insured

#### **4.9 Force Majeure**

Neither Contractor nor the Iowa DOT shall be liable to the other for any delay or failure of performance of this Contract; and no delay or failure of performance shall constitute a default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by a "force majeure". As used in this Contract, "force majeure" includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party effected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. Failure to perform by a subcontractor or an agent of the Contractor shall not be considered a "force majeure" unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Contract. "Force majeure" does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of Contractor; claims or court orders which restrict Contractor's ability to deliver the goods or services contemplated by this Contract. If a "force majeure" delays or prevents Contractor's performance, the Contractor shall immediately commence to use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be reasonably determined solely by the Iowa DOT.

During any such period, the Contractor shall continue to be responsible for all costs and expenses related to alternative performance.

This Section shall not be construed as relieving the Contractor of its responsibility for any obligation which is being performed by a subcontractor or supplier of services unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as described here.

#### **4.10 Indemnification by Contractor**

The Contractor agrees to defend, indemnify and hold the Iowa DOT, and the State of Iowa, its employees, agents, board members, appointed officials and elected officials, harmless from any and all demands, debts liabilities, damages, loss, claims, suits or actions, settlements, judgments, costs and expenses, including the reasonable value of time expended by the Attorney General's Office, and the costs and expenses and attorney fees of other counsel required to defend the Iowa DOT or the State of Iowa related to or arising from: Any violation or breach of this Contract including without limitation any of the Contractor's representations or warranties; or Any acts or omissions, including, without limitation, negligent acts or omissions or willful misconduct of Contractor, its officers, employees, agents, board members, contractors, subcontractors, or counsel employed by Contractor in the performance of this Contract, or any other reason in connection with the goods and services provided under this Contract; or Claims for any violation of any intellectual property right including but not limited to infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from the any of the goods or service performed in accordance with this Contract; or The Contractor's performance or attempted performance of this Contract; or *Any failure by the Contractor to comply with all local, State and Federal laws and regulations*; or Any failure by the Contractor to make all reports, payments and withholdings required by Federal and State law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa.

The Contractor's duty to indemnify as set forth in this section shall survive the expiration or termination of this Contract and shall apply to all acts taken in the

performance of this Contract regardless of the date any potential claim is made or discovered by the STATE.

#### **4.11 Indemnification by Iowa DOT**

The State shall, only to the extent consistent with Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 669, indemnify and hold harmless the Contractor from and against any and all costs, expenses, losses, claims, damages and liabilities arising directly out of the negligence or wrongful acts or omissions of any employee of the Iowa DOT while acting within the scope of the employee's office of employment in connection with the performance of this Contract.

At the option of the Iowa DOT, the Contractor shall be represented by the Attorney General of the State or special counsel retained by the Iowa DOT or the Attorney General of the State with respect to any litigation brought by or against the Contractor or such persons with respect to any claims, damages, judgments, liabilities or causes of action to which such persons may be subject and to which they are entitled to be indemnified hereunder.

Indemnification under this Section shall survive the termination of this Contract and shall include reasonable fees and expenses of counsel and expenses of litigation. If the Iowa DOT shall have made any indemnity payments pursuant to this Section and the person to or on behalf of whom such payments are made thereafter shall collect any of such amounts from others, such person shall promptly repay such amounts to the Iowa DOT, without interest.

#### **4.12 Payments**

Payments for services will be paid monthly. Contracted Vendor must submit an itemized invoice outlining locate service(s) that were performed.

#### **4.13 Contractor Conduct**

The contractor shall adhere to State and other written established work rules. The Iowa DOT Workplace Environment Policies and Procedures will be provided to the contractor. These rules consist of commonly accepted, professional business conduct.

#### **4.14 Public Contract Termination**

The Provisions of Iowa Law as contained in Chapter 573A of the Code of Iowa, an Act to provide for termination of contracts for the construction of public improvements when construction or work thereon is stopped because of national emergency shall apply to and be a part of this Contract, and shall be binding upon all parties hereto including sub-contractors and sureties upon any bond given or filed in connection herewith.

**Legislative Changes.** The Contractor expressly acknowledges that the contracted Deliverables are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the project, the Contractor shall not hold the Agency liable in any manner for the resulting changes. The Agency shall use best efforts to provide thirty (30) days' written notice to the Contractor of any legislative change. During the thirty (30) – day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency's right to terminate the Contract pursuant to the termination provisions.

**Repayment Obligation.** In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the

Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

#### **4.15 Confidential Information**

**4.15.1** The Contractor's employees, agents and subcontractors may have access to confidential information maintained by the Iowa DOT to the extent necessary to carry out its responsibilities under the Contract.

The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Iowa DOT. The Contractor shall provide to the Iowa DOT a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract. The private or confidential information shall remain the property of the Iowa DOT at all times.

**4.15.2** No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by Contractor except as authorized by law and only with the prior written consent of the Iowa DOT, either during the period of the Contract or thereafter. Any data supplied by the Iowa DOT to the Contractor or created by the Contractor in the course of the performance of this Contract shall be considered the property of the Iowa DOT. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the Iowa DOT. The Contractor may be held civilly or criminally liable for improper disclosure of confidential information.

**4.15.3** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the Iowa DOT and cooperate with the Iowa DOT in any lawful effort to protect the confidential information.

**4.15.4** The Contractor shall immediately report to the Iowa DOT any unauthorized disclosure of confidential information.

**4.15.5** The Contractor's obligations under this section shall survive termination or expiration of this Contract.

#### **4.17 Contractor Warranties**

Construction of Warranties Expressed in this Contract with Warranties Implied by Law. All warranties made by the Contractor in all provisions of this Contract and the Response by the Contractor, whether or not this Contract specifically denominates the Contractor's promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the Iowa DOT shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Contractor.

The Contractor warrants that all the concepts, materials produced, the work product and the information, data, designs, processes, inventions, techniques, devices, and other such intellectual property furnished, used, or relied upon by the Contractor or the Iowa DOT will not infringe any copyright, patent, trademark, trade dress, or other intellectual property right of the Contractor or others. Any intellectual property provided to the Iowa DOT pursuant to the terms of this Contract, shall be wholly original with the Contractor or the Contractor has secured all applicable interests, rights, licenses, permits, or other intellectual property rights in such concepts, materials and work.

The Contractor represents and warrants that the concepts, materials and the Iowa DOT's use of same and the exercise by the Iowa DOT of the rights granted by this Contract shall not infringe upon any other work, other than material provided by the Iowa DOT to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity.

The Contractor warrants that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel. The Contractor warrants that the deliverables under this Contract will operate in conformance with the terms and conditions of this Contract.

The Contractor warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity, which might derogate, encumber, or interfere with the rights granted to the Iowa DOT.

The Contractor warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the Iowa DOT will not have any obligations with respect thereto.

The Contractor warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Contractor and any other materials, and methodologies used in connection with providing the services contemplated by this Contract.

The Contractor warrants that any software used in connection with the Internet Service shall not contain any Trojan horses, worms, viruses or other disabling devices.

The Contractor expressly warrants to the standards in the industry all aspects of the goods and services provided by it or used by the Contractor and the Iowa DOT in performance of this Contract.

Contractor warrants that during the term of this Contract and any extension or renewal term, the Contractor shall continually use and integrate the most current and up-to-date technology commercially available into the Internet Service and any components necessary for the Internet Service to function subject to the prior written approval of the Iowa DOT.



Responder\_\_\_\_\_

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## **SEALED BID**

**SOLICITATION RESPONSE DUE DATE: May 29, 2019**

**PROPOSAL NO: 22003**

**PROPOSAL DESCRIPTION: One-Call Services**

**Iowa Department of Transportation  
PURCHASING – SEALED BID PROPOSAL  
800 Lincoln Way  
Ames, Iowa 50010**