ADMINISTRATION INFORMATION

A. ISSUING OFFICE: (DOES NOT APPLY)

The Procurement Service Center (PSC) Purchasing Agent listed herein is to be the SOLE point of contact concerning this RFP. Offerors shall not directly contact other personnel regarding matters concerning this RFP or to arrange meetings related to such.

B. OFFICIAL MEANS OF COMMUNICATION: (DOES NOT APPLY)

All official communication from the PSC to offerors will be via postings on an electronic solicitation notification system. The PSC will post notices that will include, but not be limited to, any modifications to administrative or performance requirements, answers to inquiries received, clarifications to requirements, and the announcement of the Notice of Intent to Award. It is incumbent upon offerors to carefully and regularly monitor the electronic solicitation notification system for any such postings. In addition, communications may be sent to attendees of the mandatory pre-proposal conferences, if any, via fax or email.

C. INQUIRIES: (DOES NOT APPLY)

Prospective offerors may make inquiries via SRS before the inquiry deadline concerning this RFP to obtain clarification of requirements. There will be opportunity to make inquiries during the pre-conference, if any. No inquiries will be accepted after the deadline.

Response to offerors’ inquiries will be posted on SRS in a timely manner. Offerors cannot rely on any other statements that clarify or alter any specification or other term or condition of the RFP.

Should any interested offeror, sales representative, or manufacturer find any part of the listed specifications, terms and conditions to be discrepant, incomplete, or otherwise questionable in any respect, it shall be the responsibility of the concerned party to notify the Purchasing Agent of such matters immediately upon discovery.

D. MODIFICATION OR WITHDRAWAL OF PROPOSALS:

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

E. MINOR INFORMALITIES:

Minor informalities are matters of form rather than substance evident from the response or insignificant mistakes that can be waived or corrected without prejudice to other vendors; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Purchasing Agent may waive such informalities or allow the vendor to correct them depending on which is in the best interest of the University.

F. RESPONSIBILITY DETERMINATION:

The University of Colorado Procurement Rules state a Purchasing Agent shall make purchases from, and award Contracts to, Responsible vendors only. The University reserves the right to make its offeror responsibility determination at any time in this RFP process and may not make a responsibility determination for every offeror.

G. ACCEPTANCE OF RFP TERMS:

A proposal submitted in response to this RFP shall constitute a binding offer. The autographic signature of a person who is legally authorized to execute contractual obligations on behalf of the offeror shall indicate acknowledgment of this condition. A submission in response to this RFP acknowledges acceptance by the offeror of all terms and conditions as set forth herein. An offeror shall identify clearly
and thoroughly any variations between its proposal and the RFP in the cover letter. Failure to do so shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP.

**H. PROTESTED SOLICITATIONS AND AWARDS:**

Any actual or prospective offeror who is aggrieved in connection with either the solicitation or subsequent award of a contract may protest to the University of Colorado, Assistant Vice President/Chief Procurement Officer. The protest shall be submitted in writing within seven working days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Sections IX, C. and IX, D. University of Colorado Procurement Rules.

With regard to the language above, it is important for offerors to note that a protest to the solicitation’s requirements or specifications should be made within seven (7) working days of when the item being protested is known or after Intent to Award date whichever is soonest.

Announcement of the Notice of Intent to Award will be made via a posting on an electronic solicitation notification system. The requirement for timely submission of any protest (7 working days) will begin on the first working day following posting of the Notice of Intent to Award.

**I. CONFIDENTIAL/PROPRIETARY INFORMATION:**

The University neither requests nor encourages the submission of confidential/proprietary information in response to this Request for Proposal. Information submitted will be open for public inspection. However, written requests for confidentiality can be submitted to the Purchasing Agent provided that the submission is in strict accordance with the following procedures. This remains the sole responsibility of the offeror. The Purchasing Agent will make no attempt to cure any information that is found to be at a variance with this procedure. The offeror may not be given an opportunity to cure any variances after proposal opening. Neither a proposal in its entirety, nor proposal price information will be considered confidential/proprietary. Questions regarding the application of this procedure must be directed to the Purchasing Agent listed in this RFP.

**Procedure:**

1. A written request for confidentiality shall be submitted, by the offeror, with the proposal response package.
2. The written request will be enclosed in an envelope marked “Request for Confidentiality.”
3. The written request must be accompanied by the information that is requested to be held confidential. Specific reasoning as to why each element is to remain confidential, other than recitation of a specific state or federal statute, is required.
4. Confidential/proprietary information must be separated out from the rest of your response. Co-mingling of confidential/proprietary information and other information is not acceptable.
5. The Purchasing Agent will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the Purchasing Agent will be sent to the offeror.

**J. ACCEPTANCE OF PROPOSAL CONTENT:**

The contents of the proposal (including persons specified to implement the project) of the offeror will become contractual obligations if acquisition action ensues. Failure of the successful offeror to accept these obligations in a contract, purchase order, or similar authorized acquisition document may result in cancellation of the award and such offeror may be removed from future solicitations.
K. FORM OF THE CONTRACT:

A condition of the offeror’s response shall be that the contract resulting from the award to the offeror shall be in the form required by current Colorado statutes, University of Colorado Procurement rules and Fiscal Procedures. The contract will include all such terms and conditions required by these statutes and rules. In the event that the offeror’s forms (or parts of forms) are included as attachments or exhibits in the final contract, the offeror agrees that where there are contradictions or inconsistencies, the terms of the contract shall always supersede, manage, and control those of any such attachment or exhibit. Further, the terms of the RFP and of the successful offeror’s response to the RFP (the “Response”) shall be incorporated into the final contract, with the contract taking precedence over either the RFP or the Response, and the RFP taking precedence over the Response in the event the documents conflict.

Also, the contract will state that Colorado law shall govern the contract and that the offeror must agree to indemnify the University. A commercially reasonable version of the following language shall appear in the contract:

"The offeror shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the offeror, or its employees, agents, subofferors or assignees pursuant to the terms of this Contract”.

The University is precluded from indemnifying any parties, including offerors.

Also, the contract shall include the “Special Provisions” which are required pursuant to the University of Colorado Fiscal Procedures. The “Special Provisions” are incorporated into this RFP as a prerequisite.

L. RFP CANCELLATION:

The University reserves the right to cancel this RFP at any time, without penalty.

M. RFP RESPONSE/MATERIAL OWNERSHIP:

All material submitted regarding this RFP becomes the property of the University, unless otherwise noted in the RFP.

N. INCURRING COSTS:

The University is not liable for any cost incurred prior to issuance of a legally executed contract and/or a purchase order. No property interest, of any nature shall occur until a contract is awarded and signed by all concerned parties.

O. NON-DISCRIMINATION:

The offeror shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of race, color, religion, national origin, age or sex.

P. NEWS RELEASES:

Neither the University, nor the offeror, shall make news releases pertaining to this RFP prior to execution of the contract without prior written approval.

Q. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:
1. By submission of this proposal each offeror certifies, and in the case of a joint proposal each party, thereto certifies as to its own organization, that in connection with this procurement:

(a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening, directly or indirectly to any other offeror or to any competitor; and

(c) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

2. The person submitting the Request for Proposal form of this proposal certifies that:

(a) He/she is the person in the offeror’s organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to (1)(a) through (1)(c) above; or

(b) He/she is not the person in the offeror’s organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (1)(a) through (1)(c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to (1)(a) through (1)(c) above.

3. A proposal will not be considered for award where (1)(a), (1)(c), or (2) above has been deleted or modified. Where (1)(b) above has been deleted or modified, the proposal will not be considered for award unless the offeror furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the University’s Director of Purchasing, or designee, determines that such disclosure was not made for the purpose of restricting competition.

R. TAXES:

The University of Colorado, as a public institution of higher education of the State of Colorado, is exempt from all federal excise taxes under Chapters 32 and 33 of the Internal Revenue Code and from all Colorado State and local government sales and use taxes (see C.R.S. 39-26-114(a) and 203).

https://www.cu.edu/psc/purchasing/certificates_exemption.htm

S. ASSIGNMENT AND DELEGATION:

Neither party to any resulting contract may assign or delegate any portion of the agreement without the prior written consent of the other party.

T. AVAILABILITY OF FUNDS:

Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the University.

U. INDEPENDENT CONTRACTOR CLAUSE:

Contracts resulting from this RFP must contain the following clause:
"THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE OF THE UNIVERSITY. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKER'S COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUIRED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS."

V. STANDARD OF CONDUCT:

The successful firm shall be responsible for maintaining satisfactory standards of employees' competency, conduct, courtesy, appearance, honesty, and integrity, and shall be responsible for taking such disciplinary action with respect to any employee, as may be necessary.

The University may request the successful firm to immediately remove from this assignment any employee found unfit to perform duties due to one or more of the following reasons:

(1) Neglect of duty.

(2) Disorderly conduct, use of abusive or offensive language, quarreling, intimidation by words or actions or fighting.

(3) Theft, vandalism, immoral conduct or any other criminal action.

(4) Selling, consuming, possessing, or being under the influence of intoxicants, including alcohol, or illegal substances while on assignment for the University.

W. OTHER APPLICABLE STATUTES:

1. By submission of a response, the offeror avers that he/she is familiar with Colorado Revised Statutes, 18-8-301, et seq. (Bribery and Corrupt Influence) and 18-8-401, et seq. (Abuse of Public Office) as amended, and that no violation of such provisions is present.

2. By submission of a response, the offeror avers that to his/her knowledge, no University of Colorado employee has any personal or beneficial interest whatsoever in the service or property described herein. See CRS 24-18-201 and CRS 24-50-507.
SPECIAL PROVISIONS

The Special Provisions apply to all contracts except where noted in italics.

1. CONTROLLER'S APPROVAL

This contract shall not be valid until it has been approved by the University Controller or designee.

2. FUND AVAILABILITY.

Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. GOVERNMENTAL IMMUNITY.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

4. INDEPENDENT CONTRACTOR.

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the University. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the University and the University shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the University to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the University, and (c) be solely responsible for its acts and those of its employees and agents.

5. COMPLIANCE WITH LAW.

Contractor shall strictly comply with all applicable federal and state laws, University policies, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

6. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

7. BINDING ARBITRATION PROHIBITED.

The University of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

The signatories aver that to their knowledge, no employee of the University has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor’s services and Contractor shall not employ any person having such known interests.

9. VENDOR OFFSET.

[Not Applicable to intergovernmental agreements] If required by CRS §24-30-202.4 (3.5), the University Controller or designate may withhold payment under the State’s vendor offset intercept system for debts owed for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

10. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.

[Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the University within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the University a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the University may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

11. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.
INSURANCE REQUIREMENTS

The Contractor shall obtain and maintain and cause its sub-contractors to obtain and maintain, at its own expense and for the duration of the contract, the minimum insurance coverages set forth below. By requiring such minimum insurance, the University shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor under this contract. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. Neither the contractor nor its sub-contractors, under this agreement, are relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

COVERAGES

1. **Commercial General Liability** – ISO most current form. Coverage to include:
   - Premises and Operations
   - Personal / Advertising Injury
   - Products / Completed Operations
   - Liability assumed under an Insured Contract (including defense costs assumed under contract)
   - Broad Form Property Damage
   - Independent Contractors

2. **Professional Liability** – The Contractor shall maintain Errors and Omissions Liability covering wrongful acts, including breach of fiduciary duty, errors and/or omissions in the provision of professional services under a written contract.

3. **Automobile Liability** including all:
   - Owned Vehicles
   - Non-owned Vehicles
   - Hired Vehicles

4. **Workers Compensation**
   - Statutory Benefits (Coverage A)
   - Employers Liability (Coverage B)

5. **Privacy/Network/Security Liability** – The Contractor shall maintain liability insurance covering security breach, privacy breach of electronic or non-electronic information in their care, custody, and control.

The Contractor shall carry the following limits of liability as required below:

**Commercial General Liability**
- General Aggregate $2,000,000
- Products/Completed Operations Aggregate $2,000,000
Each Occurrence Limit $1,000,000
Personal/Advertising Injury $1,000,000
Fire Damage (Any One Fire) $ 50,000
Medical Payments (Any One Person) $ 5,000

**Automobile Liability**
- Bodily Injury/Property Damage $1,000,000
- Combined Single Limit

**Professional Liability**
- Per Occurrence/Aggregate $2,000,000

**Workers' Compensation - Statutory**
- Coverage A (Workers' Compensation) $ 100,000
- Coverage B (Employers Liability) $ 500,000
- $ 100,000

**Privacy/Network/Security Liability**
- Each Occurrence/Incident Claim $1,000,000
- Aggregate $2,000,000

**ADDITIONAL INSURANCE REQUIREMENTS**
1. The Contractor shall provide the University of Colorado a Certificate of Insurance evidencing all required coverages prior to commencing work or entering University premises.
2. Unless otherwise specified, all policies must be written on an occurrence policy form. If coverage is written on a claims-made form, the retroactive, pending and/or prior litigation date must be shown on the Certificate of Insurance.
3. The Contractor shall name “The Regents of the University of Colorado, a body corporate, and its officers, employees, agents and volunteers” as an Additional Insured with respect to liability and defense of suits as respects the General Liability and Privacy/Network/Security Liability policy. Additional insured coverage to provide all claim, defense and related expenses arising out of the performance of the ongoing or completed work or products or other activities, regardless of whether those claims arise out of the sole or partial negligence or acts or omissions, as allowed by law. These obligations survive the completion or termination of this agreement.
4. The University requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the University.
5. A Separation of Insureds Clause must be included in general liability policies.
6. The Contractor shall advise the University in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limit. At their own expense, the Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to the University a new certificate of insurance showing such coverage is in force.
7. A Waiver of Subrogation in favor of the University must apply as respects the Workers' Compensation and Professional Liability policies.
8. The Contractor will provide the University a minimum 30 day advance written notice for cancellation, non-renewal, or material changes to policies required under the contract.
Failure of the Contractor to fully comply with these requirements during the term of the Contract may be considered a material breach of contract and may be cause for immediate termination of the Contract at the option of the University. The University reserves the right to negotiate additional specific insurance requirements at the time of the contract award.

**Non-Waiver**
The parties hereto understand and agree that The University is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101 et seq., as from time to time amended, or otherwise available to the University or its officers, employees, agents, and volunteers.

**Mutual Cooperation**
The University and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.