



**Minnesota Pollution
Control Agency**

520 Lafayette Road North
St. Paul, MN 55155-4194

Request for Quotation

Construction Projects up to \$50,000 for MPCA Contracts
Section 3

Doc Type: Contract

Contractor Information

Name: _____
Address: _____
City: _____ State: _____ Zip code: _____
Contact name: _____ Phone: _____ Vendor quote no.: _____

Return Solicitations to

Name: _____
Address: _____
City: _____ State: _____ Zip code: _____

Must be Received no Later Than

Date: _____ Time: _____

Construction Requisition Title

Solicitation Response Instructions

1. Read the entire solicitation including all terms, conditions, and specifications. All attached terms, conditions, and specifications apply to any subsequent award. Complete all applicable areas.
2. Solicitation responses must contain the signature of an authorized representative who is empowered to bind the Vendor in a contract.
3. Solicitation responses must be submitted on this form unless otherwise stated in the solicitation.
4. Delivery must be FOB destination. Freight charge to be included in unit price unless otherwise stated in the solicitation. Solicitation responses will be considered to be in strict compliance with the specifications and the Vendor will be held responsible therefore; unless the Vendor clearly indicates any deviation from the specifications.
5. The State of Minnesota reserves the right to reject any or all solicitation responses or portions thereof; to waive any irregularities or informalities in solicitation responses received; and to cancel the solicitation if it is considered to be in the State's best interest.
6. Solicitation responses submitted are irrevocable offers for 60 days following submission deadline date unless otherwise stated in the solicitation terms. Solicitation responses may be modified or withdrawn prior to the time and date set forth above. After the time set forth above, no solicitation responses may be withdrawn or modified unless approved by Minnesota Pollution Control Agency (MPCA) Contractor.
7. Prices must be submitted in United States currency.

The undersigned, being familiar with the local conditions affecting the cost of the work and with the contract documents, including the Solicitation Form, Specifications, Drawings, and Addenda, and in accordance with the provisions thereof, hereby proposes to furnish all labor and materials and equipment necessary for:

Construction requisition title: _____

Base price: \$ _____
(Numeric dollar amount)

Certification

I/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 solicitation response; that this solicitation response has been independently arrived at without collusion with any other vendor, competitor, or potential competitor; that this solicitation response has not been knowingly disclosed prior to the opening of solicitation responses to any other vendor or competitor; and that the above statement is accurate under penalty of perjury.

Company name (print): _____ Authorized signature: _____
Mailing address (if different from above): _____
City: _____ State: _____ Zip code: _____
Contact name (print): _____ Contact title: _____

Terms and conditions are attached

Terms and Conditions

Informal Bid (Request for Quotation).

The words "signature (in ink)" when used in this solicitation include signature stamps, photocopies of signatures, and facsimile signatures. Responders may be required to confirm these signatures in writing when notified.

Responses transmitted to: _____, MPCA Contractor over a facsimile machine will be accepted.

The fax number is: _____

Building Construction Contractor Registration No.: _____

Or License No.: _____ **Type of License:** _____

Minn. Stat § 181.723 as amended (Minn. Laws, chapter 295) requires Contractors and Subcontractors that provide commercial or residential building construction or improvement services in Minnesota to be registered with the Minnesota Department of Labor and Industry (DLI) by September 15, 2012, unless they are already licensed, certified, or registered by the DLI. Contractors are required to have a Building Construction Contractor Registration No. prior to receiving a Contract Award. For additional information and to register, go to <http://www.dli.mn.gov/register> or contact DLI at 651.284.5074 or email: dli.register@state.mn.us.

Indemnification, Hold Harmless, and Limitation of Liability. The Subcontractor shall indemnify, protect, save and hold harmless the State, its representatives and employees, from any and all claims or causes of action, including all legal fees incurred by the State arising from the performance of the Contract by the Contractor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contractor may have with the State's failure to fulfill its obligations pursuant to the Contract.

The State agrees that the Subcontractor, its principals, members and employees shall not be liable to the State for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the goods provided or services performed hereunder for an aggregate amount in excess of \$10,000,000 or the contract amount, whichever is greater. This limitation of liability does not apply to damages for personal injury or death, or to the Subcontractor's obligation to indemnify, and hold the State harmless against intellectual property infringement claims. This indemnification does not include liabilities caused by the State's gross negligence or intentional wrong doing of the State.

The State is a third-party beneficiary of this subcontract. The State may, at its option, enforce the subcontract or require the MPCA Contractor to enforce the subcontract on behalf of the State.

This clause will not be construed to bar any legal remedies the Subcontractor may have for the MPCA Contractor's failure to fulfill its obligations under this subcontract.

Jurisdiction and Venue. This solicitation and the Subcontract, amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of the Subcontract or breach thereof shall be in the State or federal court with competent jurisdiction in Ramsey County, Minnesota.

Laws and Regulations. Any and all services, articles or equipment offered and furnished must comply fully with all local, State, and federal laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination.

Assignment. The Subcontractor shall not sell, transfer, assign, or otherwise dispose of the Subcontract or any portion hereof or of any right, title, or interest herein without the prior written consent of the MPCA Contractor. Such consent shall not be unreasonably withheld. The Subcontractor shall give written notice to MPCA Contractor of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of the Subcontract. Failure to do so may result in the Subcontractor being held in default. This consent requirement includes reassignment of the Subcontract due to a change in ownership, merger, or acquisition of the Subcontractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Subcontractor's right to assign the Subcontract to corporations to provide some of the services hereunder. Notwithstanding the foregoing acknowledgment, the Subcontractor shall remain solely liable for all performance required and provided under the terms and conditions of the Subcontract.

Publicity. Any publicity given to the program, publications or services provided resulting from a State contract for goods or services, including but not limited to notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors, shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Contract prior to its approval by the Materials Management Division Acquisition Management Specialist and the Department of Administration Communications Office. The responder shall not make any representation of the State's opinion or position as to the quality or effectiveness of the product and/or services that are the subject of the Contract without the prior written consent of the State's Acquisition Management Specialist. "Representations" include, but are not limited to publicity, advertisements, notices, press releases, reports, signs, and similar public notices.

Default. A Subcontract constitutes a binding contract. All construction work will be subject to inspection and acceptance by the MPCA Contractor after delivery. No substitutions or cancellations are permitted without approval of the MPCA Contractor. Back orders, defaults in promised delivery, or failure to meet specifications in the Subcontract and/or the solicitation authorize the MPCA Contractor to cancel the award or any portion of it, purchase elsewhere, and charge the full increase, if any, in cost and handling to

the defaulting responder. A Subcontractor may be removed from the State's vendor list or suspended from receiving awards for consistent failure to comply with the terms and conditions of the Subcontract, or for failure to pay the State for the cost incurred on defaulted Subcontracts.

State Audit. The books, records, documents, and accounting procedures and practices of the Subcontractor and its employees, agents, or subcontractors relevant to the Subcontract must be made available to and subject to examination by the Legislative Auditor and/or the State Auditor for a minimum of six years after the end of the Subcontract.

Payment. Minn. Stat. § 16A.124 requires payment within 30 days following receipt of an undisputed invoice, merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read "Net 30 days."

Government Data Practices. The Subcontractor and the State must comply with the Minnesota Government Data Practices Act, Minn. Stat. ch. 13, (and where applicable, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State to the Contractor and all data provided to the State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with this Contract that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and, where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the State.

The Contractor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and, where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Contract. In the event that the Contractor subcontracts any or all of the work to be performed under the Contract, the Contractor shall retain responsibility under the terms of this paragraph for such work.

Hazardous Substances. To the extent that the goods to be supplied to the State by the Subcontractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Subcontractor must provide the State with Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

Environmentally Responsible Purchases. Wherever practicable, the State encourages environmentally responsible purchasing.

Dates. Dates are listed in the sequence of month/date/year. Times shown are based on the Central Time Zone, USA.

Federal Debarment. By submission of its response, the vendor certifies that neither it, nor its principals, is presently debarred or suspended by any federal department or agency; or, if the amount of this response is equal to or in excess of \$100,000, that neither it nor its principals nor its subcontractors receiving sub awards equal to or in excess of \$100,000 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. If unable to certify to any of the statements in this certification, the responder must attach an explanation to its response.

Addenda to the Solicitation. Changes to the solicitation will be made by written addendum. Any addendum issued will become part of the solicitation. Each responder must follow the directions on the addendum. All requests for clarification must be directed to the contact person listed in the solicitation. Only changes made via addendum will be valid.

Specifications. Responses will be held to strict compliance with the specifications. If a response deviates from the specifications, the deviation must be clearly noted. When brand names or manufacturers' numbers are stated in the specifications, they are intended to establish a standard only and are not restrictive unless the solicitation states: "No substitute." Responses will be considered on other makes, models, or brands having comparable quality, style, and performance characteristics. Alternate equipment is subject to approval and must be available for demonstration. Samples may be required prior to award. Alternate responses offering lower quality will not be considered. All specifications are for new equipment unless otherwise noted in the solicitation. Responders must clearly indicate if they are offering other than new equipment. The State reserves the right to reject any or all responses that are not an approved equal.

Delivery. The solicitation shows the expected delivery date to the MPCA Contractor. If the Subcontractor cannot meet the stated delivery date, an alternate delivery schedule may be offered. The use of an alternate delivery offer may become a factor in the award.

TG/ED Vendor Preference. In accordance with Minn. Stat. § 16C.16, subs. 4, 5, 6 and 7, eligible certified Targeted Group (TG) Vendors will receive a six percent preference and Certified Economically Disadvantaged (ED) Vendors will receive a six percent preference, except for construction which will receive a four percent preference, on the basis of award for this solicitation. The preference is applied only to the first \$1,000,000 of the response to the solicitation. Eligible TG businesses must be currently certified by the Materials Management Division (MMD) prior to the opening date and time.

To verify TG eligibility for preference, refer to the MMD website at <http://www.mmd.admin.state.mn.us> under "Vendor information, Targeted Groups eligible for preference in State Purchasing" or call the MMD help line at 651-296-2600. For TTY/TDD communication contact MMD through the Minnesota Relay Service at 1-800-627-3529.

State of Minnesota

Veteran-Owned Preference Form

In accordance with Minn. Stat. § 16C.16, subd. 6a, (a) Except when mandated by the federal government as a condition of receiving federal funds, the commissioner shall award up to a six percent preference in the amount bid on state procurement to **certified small businesses** that are **majority-owned and operated by**:

- (1) recently separated veterans who have served in active military service, at any time on or after September 11, 2001, and who have been discharged under honorable conditions from active service, as indicated by the person's United States Department of Defense form DD-214 or by the commissioner of veterans affairs;
- (2) veterans with service-connected disabilities, as determined at any time by the United States Department of Veterans Affairs; or
- (3) any other veteran-owned small businesses certified under Minn. Stat. § 16C.19, paragraph (d).

In accordance with Minn. Stat. § 16C.19 (d), a veteran-owned small business, the principal place of business of which is in Minnesota, is certified if it has been verified by the United States Department of Veterans Affairs as being either a veteran-owned small business or a service disabled veteran-owned small business, in accordance with Public Law 109-461 and Code of Federal Regulations, title 38, part 74.

To receive a preference the veteran-owned small business must meet the statutory requirements above by the solicitation opening date and time. When responding to a Request for Bid (RFB), the preference is applied only to the first \$1,000,000 of the response. When responding to a Request for Proposal (RFP), the preference is applied as detailed in the RFP.

If you are claiming the veteran-owned preference, **attach documentation, sign and return this form with your response to the solicitation.** Only eligible veteran-owned small businesses that meet the statutory requirements and provide adequate documentation will be given the preference.

I hereby certify that the firm listed below:

My firm is a certified small business and it is majority-owned and operated by an eligible person as defined by Minn. Stat. § 16C.16, subd. 6a.

☐ **Yes** ☐ **No** (must check yes or no) **State the type of documentation attached:** _____

Documentation must be provided for one of the following requirements:

- ☐ (1) recently separated veterans who have served in active military service, at any time on or after September 11, 2001, and who have been discharged under honorable conditions from active service, as indicated by the person's United States Department of Defense form DD-214 or by the commissioner of veterans affairs;

State the type of documentation attached: _____

- ☐ (2) veterans with service-connected disabilities, as determined at any time by the United States Department of Veterans Affairs;

State the type of documentation attached: _____

- ☐ (3) any other veteran-owned small businesses certified under Minn. Stat. § 16C.19, paragraph (d).

State the type of documentation attached: _____

Name of company: _____ Date: _____
Authorized signature: _____ Telephone: _____
Printed name: _____ Title: _____

***If you are claiming the Veteran-Owned Preference,
attach documentation, sign and return this form with your response to the solicitation.***

Public Information. Once the information contained in the responses is deemed public information, interested parties may request to obtain the public information. Contact the person listed in the solicitation for award information.

Solicitation Results. Responders should allow a minimum of two weeks after the scheduled opening before requesting the results. There are three ways for a responder to obtain results:

1. Visit the office issuing the solicitation. Please call the contact shown on the solicitation to arrange an appointment.
2. Send a self-addressed stamped envelope with each solicitation. Information will be sent to responders approximately two (2) weeks after the award.
3. Call the office issuing the solicitation. Please call the contact shown on the solicitation. Tabulations will not be given over the telephone; only the responder receiving the award and total price will be given.

Copyrighted Material Waiver. The State reserves the right to use, reproduce, and publish responses in any manner necessary for State agencies and local units of government to access the responses including, but not limited to, photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the responder's response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and/or distribution of the contents of its response and agrees to indemnify, protect, save and hold the State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the State in the defense of any such action.

Organizational Conflicts of Interest. The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a Subcontractor is unable or potentially unable to render impartial assistance or advice to the State
- the Subcontractor's objectivity in performing the work is or might be otherwise impaired; or
- the Subcontractor has an unfair competitive advantage

The Subcontractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Subcontractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Subcontract. In the event the Subcontractor was aware of an organizational conflict of interest prior to the award of the Subcontract and did not disclose the conflict to the MPCA Contract Manager, the State may terminate the Subcontract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Subcontract," "Subcontractor," and "MPCA Contract Manager" modified appropriately to preserve the State's rights.

State Employee Participation. In compliance with Minn. Stat. § 16C.09, the availability of this contracting opportunity is being offered to State employees. The State will evaluate the responses of any State employee, along with the other responses to the solicitation.

Pricing Offered in Response. Prices listed in your response to this solicitation must take into consideration all inherent costs of providing the requested construction work. The responder agrees to pay any and all fees, including, but not limited to: duties, custom fees, permits, brokerage fees, licenses and registrations. The State will not pay any additional charges beyond the price(s) listed in the response, unless otherwise provided for by law or expressly allowed by the terms of the solicitation.

Inquiries. Direct all correspondence, inquiries, legal questions, general issues, or technical issues regarding this solicitation to the contact name on page 1 of the solicitation.

Statement of Non-Collusion. By signing this solicitation I/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 solicitation response; that his solicitation response has been independently arrived at without collusion with any other vendor, competitor, or potential competitor; that his solicitation response has not been knowingly disclosed prior to the opening of solicitation responses of any other vendor or competitor; and that the above statement is accurate under penalty of perjury.

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

Certification regarding federal debarment, suspension, ineligibility, and voluntary exclusion. A contract resulting from this solicitation may be a covered transaction for purposes of federal debarment and suspension regulations. By submission of its response, the responder certifies that neither it, nor its principals or subcontractors, are presently debarred, suspended,

proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The responder further certifies that it will include this provision in any subcontracts resulting from this solicitation. If the responder knowingly renders an erroneous certification, in addition to remedies available to the Minnesota Department of Administration, the Federal Government may pursue available remedies, including but not limited to suspension or debarment.

Building Construction Quality

A. Workmanship:

Employ workman skilled and experienced for the specific task required. Licensed journeyman shall be employed where required by law. Workmanship shall be of the highest quality and performed in a neat and expeditious manner. Either the MPCA Contractor or MPCA staff shall provide the qualified supervision at the site when the work is progressing.

B. Licenses:

The State reserves the right to reject a response if the responder fails to provide the State adequate documentation of any required license. The State reserves the right to verify any required license prior to final award and at any time during the work.

C. Materials and Systems:

All materials, equipment, fixtures, apparatus, etc., shall be new unless specifically indicated otherwise. Materials, equipment, etc., specified must be manufactured, installed or applied in accordance with the directions of the manufacturer, governing association and/or laws, unless specifically shown otherwise. The generally recognized governing association guidelines and instructions will be the basis for review whether or not contractor or manufacturer subscribes or belongs to said association.

Building Construction Text

Alterations. A response containing an alteration or erasure (this includes, but is not limited to using correction fluid and typewriter correction tape to make the alteration) of any price contained in the response that is used in determining the lowest responsible responder must be rejected unless the intended result of the alteration or erasure is clear and the alteration is authenticated by an authorized representative of the responder. An alteration or erasure may be made by crossing out the price information to be altered and printing or typing the correction in ink adjacent to the crossed-out information. Any alteration or erasure, however done, must be rejected unless it is initialed by an authorized representative of the responder before the scheduled solicitation opening.

Subcontractor Payment. In accordance with Minn. Stat. § 16A.1245, the MPCA Contractor shall, within ten days of receipt of payment from the State, pay all Subcontractors and suppliers having an interest in the Subcontract their share of the payment for undisputed services provided by the Subcontractors or suppliers. The MPCA Contractor is required to pay interest of one and one-half percent per month or any part of a month to the Subcontractor on any undisputed amount not paid on time to the Subcontractor. The minimum monthly interest penalty payment for an unpaid, undisputed balance of \$100 or more will be \$10. For an unpaid balance of less than \$100, the amount will be the actual penalty due. A Subcontractor that takes civil action against the MPCA Contractor to collect interest penalties and prevails will be entitled to its costs and disbursements, including attorney's fees that were incurred in bringing the action. The MPCA Contractor agrees to take all steps necessary to comply with said statute. A consultant is a Subcontractor under the Subcontract. In the event the MPCA Contractor fails to make timely payments to a Subcontractor or supplier, the State may, at its sole option and discretion, pay a Subcontractor or supplier any amounts due from the MPCA Contractor and deduct said payment from any remaining amounts due the MPCA Contractor. Before any such payment is made to a Subcontractor or supplier, the State shall provide the MPCA Contractor written notice that payment will be made directly to a Subcontractor or supplier. If there are no remaining outstanding payments to the MPCA Contractor, the State shall have no obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

Prior to final payment, the Subcontractor shall deliver an IC 134 - Withholding Affidavit for Contractor to the <> along with the request for final payment/invoice.

Award of Related Contracts. In the event the State has or undertakes or awards supplemental contracts for work related to the Subcontract, or any portion thereof, the MPCA Contractor and Subcontractor shall cooperate fully with all other Contractors and the State in all such cases

Award of Successor Contracts. In the event the State undertakes or awards a successor contract for work related to the Subcontract, or any portion thereof, the current MPCA Contractor and Subcontractor shall cooperate fully during the transition with all other Contractors and the State in all such cases.

Site Visit. If required in the solicitation and/or specifications all vendors shall visit the site of the construction work, take their own measurements and verify all specifications and conditions pertinent to the project in order to ensure its proper completion. Ignorance of site conditions will not be the basis for any change order request.

Laws and Regulations. Any and all services, articles, or equipment offered and furnished shall comply fully with all local, State, and federal laws and regulations, including Minn. Stat. § 181.59, prohibiting discrimination, and Minn. Stat. § 177.42 - 177.44, concerning prevailing wages.

Products Containing Certain Types of Polybrominated Diphenyl Ether Banned. By signing and submitting a response to this solicitation, Contractor/Responder certifies that they have read and will comply with Laws of Minnesota, 2007, Chapter 57 (to be codified at Minn. Stat. §§ 325E.385-325E.388) as provided below:

325E.385 Products Containing Polybrominated Diphenyl Ether.

Subd. 1. **Definitions.** For the purposes of sections 325E.386 to 325E.388, the terms in this section have the meanings given them.

Subd. 2. **Commercial decabromodiphenyl ether.** "Commercial decabromodiphenyl ether" means the chemical mixture of decabromodiphenyl ether, including associated polybrominated diphenyl ether impurities not intentionally added.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of Pollution Control Agency.

Subd. 4. **Manufacturer.** "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product containing polybrominated diphenyl ethers or an importer or domestic distributor of a noncombustible product containing polybrominated diphenyl ethers.

Subd. 5. **Polybrominated diphenyl ethers or PBDE's.** "Polybrominated diphenyl ethers" or "PBDE's" means chemical forms that consist of diphenyl ethers bound with bromine atoms. Polybrominated diphenyl ethers include, but are not limited to, the three primary forms of the commercial mixtures known as pentabromodiphenyl ether, octabromodiphenyl ether, and decabromodiphenyl ether.

Subd. 6. **Retailer.** "Retailer" means a person who offers a product for sale at retail through any means, including, but not limited to, remote offerings such as sales outlets, catalogs, or the Internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

Subd. 7. **Used product.** "Used product" means any product that has been previously owned, purchased, or sold in commerce. Used product does not include any product manufactured after January 1, 2008.

325E.386 Products Containing Certain Polybrominated Diphenyl Ethers Banned; Exemptions.

Subd. 1. **Penta- and octabromodiphenyl ethers.** Except as provided in subdivision 3, beginning January 1, 2008, a person may not manufacture, process, or distribute in commerce a product or flame-retardant part of a product containing more than one-tenth of one percent of pentabromodiphenyl ether or octabromodiphenyl ether by mass.

Subd. 2. **Exemptions.** The following products containing polybrominated diphenyl ethers are exempt from subdivision 1 and section 325E.387, subdivision 2:

(1) the sale or distribution of any used transportation vehicle with component parts containing polybrominated diphenyl ethers;

(2) the sale or distribution of any used transportation vehicle parts or new transportation vehicle parts manufactured before January 1, 2008, that contain polybrominated diphenyl ethers;

(3) the manufacture, sale, repair, distribution, maintenance, refurbishment, or modification of equipment containing polybrominated diphenyl ethers and used primarily for military or federally funded space program applications. This exemption does not cover consumer-based goods with broad applicability;

(4) the sale or distribution by a business, charity, public entity, or private party of any used product containing polybrominated diphenyl ethers;

(5) the manufacture, sale, or distribution of new carpet cushion made from recycled foam containing more than one-tenth of one percent polybrominated diphenyl ether;

(6) medical devices; or

(7) the manufacture, sale, repair, distribution, maintenance, refurbishment, or modification of telecommunications equipment containing polybrominated diphenyl ethers used by entities eligible to hold authorization in the Public Safety Pool under Code of Federal Regulations, title 47, part 90.

In-state retailers in possession of products on January 1, 2008, that are banned for sale under subdivision 1 may exhaust their stock through sales to the public. Nothing in this section restricts the ability of a manufacturer, importer, or distributor from transporting products containing polybrominated diphenyl ethers through the state, or storing such products in the state for later distribution outside the state.

325E.388 Penalties. A manufacturer who violates sections 325E.386 to 325E.388 is subject to a civil penalty not to exceed \$1,000 for each violation in the case of a first offense. A manufacturer is subject to a civil penalty not to exceed \$5,000 for each repeat offense. Penalties collected under this section must be deposited in an account in the special revenue fund and are appropriated in fiscal years 2008 and 2009 to the commissioner to implement and enforce this section.

Coal Tar Sealers Banned. In May of 2009 the Minnesota Legislature took action to restrict state agencies from purchasing coal tar sealers (See the 2009 Session Laws, Chapter 172, and HF1231, section 4, 26, and 28). The law restricts Minnesota state agencies from purchasing undiluted coal tar sealers effective July 1, 2010. Undiluted coal tar sealers are defined as any sealant containing coal tar that has not been mixed with asphalt and is intended for use on asphalt surfaces, including driveways and parking lots. Vendors shall not offer, provide quotes for, nor supply such coal tar sealers.

Prevailing Wage Payroll Information

Pursuant to Minn. Stat. §§ 177.41 to 177.44 and corresponding Minn. R. 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry when conducting construction activities. Specifically, all contractors and subcontractors must pay all laborers the established prevailing wages when conducting construction activities under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

The prevailing hours of labor may not be more than eight hours per day or more than 40 hour per week. Pursuant to Minn. Stat. § 177.43, "No laborer or mechanic employed directly on the project work site by the Contractor or any subcontractor, agent or other person doing or contracting to do all or a part of the work of the project, is permitted or required to work more hours than the prevailing hours of labor, unless paid for all hours in excess of the prevailing hours at a rate of at least one and one-half times the hourly basic rate of pay; and a laborer or mechanic may not be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area." Nothing in this Contract shall be construed as prohibiting the Contractor or subcontractor paying a higher negotiated wage rate. This requirement does not apply to wage rates and hours of employment of laborers or mechanics who process or manufacture materials or products or to the delivery of materials or products by or for commercial establishments which have a fixed place of business from which they regularly supply processed or manufactured materials or products. This section applies to laborers or mechanics who deliver mineral aggregate such as sand, gravel, or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

To facilitate compliance pursuant to the State Statutes, wage determinations (prevailing wages) were prepared for different trades for each county from which labor for said project would be secured and are included and published in the Contract Specifications. Any wage determinations that are found not to be so promulgated do not relieve the Contractor from any responsibility for paying the prevailing wage rate of the trade in question. All laborers, workers, and mechanics must be paid the prevailing wage rate for work performed on the project. If the wage certification or published prevailing wages do not include a rate for a classification of work used on the project, the contractor shall contact the Department of Labor and Industry to obtain a rate.

In accordance with Minn. Stat. §§ 177.30, subd. 4 and 177.43, subd. 3, the Contractor and Subcontractor shall furnish to the Contracting Authority and the Project Owner all payrolls, of all workers on the project, a certified payroll report via email as attachments, a State of Minnesota Prevailing Wage Payroll Report as a Microsoft Excel file and Statement of Compliance Form as a PDF file to the appropriate email addresses: prevailingwage.pca@state.mn.us.

The State of Minnesota Prevailing Wage Payroll Report and Statement of Compliance Form are available on the MMD website at <http://www.mmd.admin.state.mn.us/mn02000.htm>. Submit the completed and signed State of Minnesota Prevailing Wage Payroll Report as a Microsoft Excel file and the Statement of Compliance Form as a PDF file, no other payroll forms will be accepted to meet this requirement.

These completed forms must be furnished not more than 14 days after the end of each pay period. The Subject Line on the Contractor's and Subcontractor's email must show the Firm name, the Contract Number or Purchase Order Number and the pay period ending date. Failure to maintain records as required by Minn. Stat. § 177.30 may be fined up to \$1,000 for each failure to maintain said records. This penalty is in addition to any penalties provided under Minn. Stat. § 177.32, subd. 1. Contractors and subcontractors must keep these records for three years after the contracting authority has made final payment on the public works project.

The Contractor is solely responsible for payment of all required Prevailing Wage rates. Further, the State will not be liable for increased labor cost, errors in the rates or classifications, or changes to same prior to the awarding of Contracts. Information pertaining to the prevailing wage rates, prevailing hours of labor and hourly basic rates are included in this specification. Said wage rates must be posted in at least one conspicuous place for the employees working on the project.

Any Contractor, subcontractor, or agent, who, after executing a contract in compliance with this section, pays to any laborer, workman, or mechanic employed directly on the project, a lesser wage for work done on the project than the prevailing wage rate, shall be subject to fine and imprisonment. This misdemeanor is punishable by a fine of not more than \$700, or imprisonment for not more than 90 days, or both. Each agent or subcontractor shall furnish to the contractor evidence of compliance with this section. Each day a violation of this section continues is a separate offense.

If you have questions regarding the Prevailing Wage Laws, contact the DLI at 651-284-5091.

Permits and Inspections. The Contractor shall obtain all necessary permits/inspections required for the work and include the cost in their response.

Sales and Use Tax. In submitting the bid the responder is understood to have included in the bid price any applicable State or federal sales, excise or use tax on all materials, supplies and equipment that are to be utilized on this project.

Dispute Resolution Procedures. Any issue a responder has with the solicitation document, which includes, but is not limited to, the terms, conditions, and specifications, must be submitted in writing to the buyer prior to the bid opening due date and time.

Warranty. The Contractor shall provide a one year warranty which includes labor and materials, unless otherwise stated in the specifications or if there is an extended manufacturer's warranty. The Contractor shall repair or replace defective materials that fail within the warranty period. The warranty period shall not commence until final acceptance by owner.

Award—General. Award will be made to the lowest priced responsible vendor meeting all terms, conditions, and specifications.

Change Orders. The MPCA Contractor may make minor changes within the general scope of work by issuing a written Change Order, duly approved and executed by the MPCA Contractor, Subcontractor and MPCA Project Manager. The Subcontractor is required to provide the documentation to justify the change request. The MPCA Contractor will not compensate the Subcontractor for cost overruns. The increase must be necessary due to materially different work conditions which could not have been predicted from available material and data. In no case shall the Contract, plus the Change Order exceed \$50,000.00.

Insurance. Subcontractors should include proof of insurance with their bid. Upon notification of award, and within seven (7) days of notification, the awarded Subcontractor must provide a certificate of insurance with the coverage and amounts called for in the Request for Bid. Any subcontract awarded will not be executed until the certificate of insurance has been received and approved by the MPCA Contractor or MPCA Project Manager. The State reserves the right to rescind the subcontract award if the Subcontractor does not provide the certificate of insurance within the required time.

Construction Insurance Requirements

The Contractor shall maintain insurance to cover claims which may arise from operations under this Contract, whether such operations are by the Contractor, their Subcontractor, or by anyone directly or indirectly employed under this Contract.

The Contractor shall not commence work under the Contract until they have obtained all the insurance described below and the State of Minnesota has approved such insurance. The Contractor, under this Contract, can provide applicable services to the State of Minnesota, hereinafter referred to as Owner.

All policies shall remain in force and effect throughout the term of the Contract.

Requirements for the Contractor: The Contractor's policy(ies) shall be primary and non-contributory insurance to any other valid and collectible insurance available to the state of Minnesota with respect to any claim arising out of this Contract.

The Contractor is responsible for payment of Contract related insurance premiums and deductibles.

Insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the MN Department of Commerce if they are not rated by AM Best.

Certificates of Insurance acceptable to the State of Minnesota shall be submitted prior to commencement of the work under this contract. If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota.

Notice to the Contractor: The failure of the State of Minnesota to obtain Certificate(s) of Insurance, for the policies or renewals thereof or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the Owner to the Contractor to provide such insurance.

The Owner will reserve the right to immediately terminate the Contract if the Contractor is not in compliance with the insurance requirements and the Owner retains all rights to pursue any legal remedies against the Contractor. In the event of a claims dispute, all insurance policies must be open to inspection by the state, and copies of policies must be submitted to state's authorized agent upon written request.

The insurance and insurance limits required herein shall not be deemed as a limitation on the Contractor's liability with regard to the indemnities granted to the Owner under the contract.

Notice to Insurer: The Contractor's insurance company waives its right to assert the immunity of the State as a defense to any claims made under said insurance. Contractor's insurance company is notified that the liability of their policyholder is not limited by statute, and as a result, they are precluded from limiting claim payments based on any assumption that they are protected by immunity of the State.

Coverage under the General Liability policy(ies) of the Contractor will be as broadly construed for the Owner as is available to the Contractor.

The liability limits specified by the contract are the minimum limits required, and any and all additional limits provided to the Contractor will be available on an excess, umbrella or other basis, to the Additional Insured for any and all covered claims.

Policy Requirements:

1. Workers' Compensation Insurance:

- A. Contractor shall provide workers' compensation insurance for all employees and shall require any Subcontractor to provide workers' compensation insurance in accordance with the statutory requirements of the State of Minnesota and must include:

- 1) Part 2, Employers Liability including Stop Gap Liability for monopolistic states, at limits of not less than:
\$100,000 – Bodily Injury by disease per employee
\$500,000 – Bodily Injury by disease aggregate
\$100,000 – Bodily Injury by accident
- 2) Coverage C: All States Coverage
- 3) If applicable, USL&H, Maritime, Voluntary and Foreign Coverage.
- 4) A waiver of subrogation in favor of the State of Minnesota, as Owner.

If Contractor is self-insured for its obligation under the Workers' Compensation Statutes in the jurisdiction where the project is located, a Certification of the Authority to Self-Insure such obligations shall be provided.

Evidence of Subcontractor insurance shall be filed with the Contractor.

- B. Statutory Compensation Coverage. If MN Statute 176.041 exempts the Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State of Minnesota, the Contractor must provide a written statement, signed by the authorized signer of the Contract, stating the qualifying exemption that excluded the Contractor from MN Workers' Compensation requirements.

If, during the course of the Contract, the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements included herein and provide the State of Minnesota with a certificate of insurance.

2. Automobile Liability Insurance: The Contractor shall maintain insurance to cover liability arising out of the operations, use, or maintenance of all owned, non-owned, and hired automobiles.

- A. Minimum Limits of Liability:
\$2,000,000 - Per Occurrence combined Single Limit Bodily Injury and Property Damage
- B. Coverages:
- Owned Automobile
 - Non-owned Automobile
 - Hired Automobile
 - Waiver of subrogation in favor of the State of Minnesota

When project involves pollutants, the following coverage's are also required:

- A. CA 9948 Endorsement – Pollution Liability – Broadened Coverage (or equivalent)
- 1) CA 9948 is an endorsement that is attached to an Automobile Liability policy for Contractors who are handling pollutants. This endorsement extends the Automobile Liability policy to cover liabilities incurred as a result of the discharge, dispersal, seepage, migration, release or escape of pollutants that are part of the contract work, which are being transported, towed by, handled, stored, disposed of or processed in or upon a covered vehicle, if they are upset or overturned.
- B. MCS 90 Endorsement
- 1) MCS-90 is an endorsement that is attached to the Automobile Liability policy of motor carriers as set forth by the Motor Carrier Act of 1980. The endorsement assures compliance by the insured, within the limits stated therein, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Highway Administration (FHWA) and the Interstate Commerce Commission (ICC).

3. Commercial General Liability: The Contractor shall maintain insurance to cover claims arising from operations under this Contract, whether such claims are by the Contractor, Subcontractor, Sub-Subcontractor or by anyone directly or indirectly employed under this Contract.

- A. Minimum Limits of Liability:
\$2,000,000 - Per Occurrence
\$2,000,000 - Annual Aggregate
\$2,000,000 - Annual Aggregate applying to Products and Completed Operations
\$ 50,000 - Fire Damage (any one fire)
\$ 5,000 - Medical Expense (any one person per occurrence)

B. Coverages

- Premises and Operations Bodily Injury and Property Damage
- Personal Injury & Advertising Injury
- Products and Completed Operations Liability
- Contractual Liability as provided in ISO form CG 00 01 04 13 or its equivalent.
- Pollution exclusion with standard exception as per Insurance Services Office (ISO) Commercial General Liability Coverage Form – CG 00 01 04 13 or equivalent
- Independent Contractors – Let or Sublet work
- Waiver of Subrogation in favor of the State of Minnesota
- Officers and Employees of the State of Minnesota shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

Contractor agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Broad Form Property Damage (BFPD) or Explosion, Collapse, Underground (XCU).

4. **Pollution Liability Insurance**

A. When project involves work with pollutants the following insurance is required:

The Contractor shall maintain Pollution Liability Insurance (or equivalent pollution liability coverage endorsed on another form of liability coverage, such as general liability or professional errors and omissions policy) and in case any work is subcontracted, the Contractor will require the subcontractor to provide Pollution Liability insurance, unless the requirement is noted as waived in these specifications for specific types of work. Unless otherwise specified the insurance minimum limits of liability shall be as follows:

\$2,000,000 – Per Occurrence
\$2,000,000 – Annual Aggregate

The following coverage's shall be included:

- Policy will include non-owned disposal site Pollution Liability.
- Policy will not contain a lead exclusion.
- Waiver of subrogation in favor of the State of Minnesota.

Officers and Employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insured, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

Umbrella or Excess Liability: An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limit to satisfy the full policy limits required by the Contract.

Officers and Employees of the State of Minnesota shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

| CERTIFICATE OF LIABILITY INSURANCE | | | | | | | DATE (MM/DD/YY) Date Cert. Typed | |
|--|---|---------------|--|--|-------------------------------------|---------------------|-------------------------------------|--|
| PRODUCER Agent/Broker Name & Address | | | | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT ENDORSE, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY ITSELF. | | | | |
| INSURED Contractor/Vendor Name & Address | | | | INSUREERS AFFORDING COVERAGE | | | | |
| | | | | INSURER A: Name of Insurance Company | | | | |
| | | | | INSURER B: " " " | | | | |
| | | | | INSURER C: " " " | | | | |
| | | | | INSURER D: " " " | | | | |
| | | | | INSURER E: " " " | | | | |
| COVERAGES | | | | | | | | |
| THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT, IN RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. | | | | | | | | |
| INSR LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE(MM/DD/YY) | POLICY EXPIRATION DATE(MM/DD/YY) | LIMITS | | | |
| A | GENERAL LIABILITY | Policy Number | Effective date of policy | Expiration date of policy | EACH OCCURENCE | | \$2,000,000 | |
| | T COMMERCIAL GENERAL LIABILITY | | | | FIRE DAMAGE (Any one fire) | | \$ 50,000 | |
| | " CLAIMS MADE T OCCUR | | | | MED EXP (Any one person) | | \$ 5,000 | |
| | T CONTRACTUAL LIABILITY | | | | PERSONAL & ADVERTISING INJURY | | \$2,000,000 | |
| | " DEDUCTIBLE BI AND/OR PD | | | | GENERAL AGGRREGATE | | \$2,000,000 | |
| | GENERAL AGGREGATE APPLIES PER: | | | | PRODUCTS-COMP/OP AGG | | \$2,000,000 | |
| | " POLICY " PROJECT " LOC | | | | | | | |
| B | AUTOMOBILE LIABILITY | Policy Number | Effective date of policy | Expiration date of policy | COMBINED SINGLE LIMIT (Ea accident) | | \$2,000,000 | |
| | " ANY AUTO | | | | BODILY INJURY (Per person) | | \$ | |
| | T ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) | | \$ | |
| | " SCHEDULED AUTOS | | | | PROPERTY DAMAGE (Per accident) | | \$ | |
| | T HIRED AUTOS | | | | | | | |
| T NON-OWNED AUTOS | | | | | | | | |
| T *CA 99 48 Endorsement | | | | | | | | |
| T *MCS-90 Endorsement | | | | | | | | |
| C | EXCESS LIABILITY | Policy Number | Effective date of policy | Expiration date of policy | EACH OCCURENCE | | \$ ** | |
| | T OCCUR " CLAIMS MADE | | | | AGGREGATE | | \$ ** | |
| | " DEDUCTIBLE | | | | | | \$ | |
| | " RETENTION \$ | | | | | | \$ | |
| | | | | | | | | |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | Policy Number | Effective date of policy | Expiration date of policy | <input checked="" type="checkbox"/> | WC STATUTORY LIMITS | OTHER | |
| | | | | | E.L. EACH ACCIDENT | | \$100,000 | |
| | | | | | E.L. DISEASE-EA EMPLOYEE | | \$100,000 | |
| | | | | | E.L. DISEASE - POLICY LIMIT | | \$500,000 | |
| | | | | | | | | |
| E | * POLLUTION LIABILITY | Policy Number | Effective date of policy | Expiration date of policy | Each Occurrence Aggregate | | \$2,000,000 \$2,000,000 | |
| | " CLAIMS MADE T OCCUR | | | | | | | |
| | T NON-OWNED DISPOSAL SITES | | | | | | | |
| | T NO LEAD EXCLUSION | | | | | | | |
| DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS | | | | | | | | |
| RE: State Project _____ Purchase Order # _____ | | | | | | | | |
| - The State of Minnesota is named as an Additional Insured on a primary and non-contributory basis for ongoing and completed operations under Commercial General Liability, Umbrella or Excess Liability, and *Pollution Liability. | | | | | | | | |
| - A waiver of subrogation applies in favor of the certificate holder on all policies listed above. | | | | | | | | |
| CERTIFICATE HOLDER | | X | ADDITIONAL INSURED; INSURER LETTER: _____ | | CANCELLATION | | | |
| The State of Minnesota Department of Administration Materials Management Division 112 Administration Building 50 Sherburne Ave. St. Paul, MN 55155 | | | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. | | | | | |

Correctly Completed Certificate Should Include Everything in this Sample