



INVITATION FOR BID
 State of North Dakota
 OMB/Central Services Division
 SFN 2464 (8-2008)

Purchasing Agency:
 Department of Public Instruction
 600 E Blvd. Ave., Dept. 201
 Bismarck, ND 58505-0440
 701-328-2272

Bid Number: 201-1061-33	Bid Title: Tote Boxes	
Date Issued: March 29, 2011	Procurement Officer: Candice Tollefson	
Deadline for Questions: April 11, 2011	Telephone: 701-328-2272	Fax: 701-328-2461
Bid Opening Date and Time: April 18, 2011 2:00 PM CDT	E-mail: ctollefson@nd.gov	
Date Delivery Required: May 27, 2011	Delivery location F.O.B. (Destination): Booth Delivery Service, Fargo, ND	

You are invited to participate in this Invitation for Bid. Please submit your bid response in conformance with the instructions specified herein.

By submitting a bid response, the bidder agrees and promises to sell, furnish, and deliver to the State all commodities and services contained in this Invitation for Bid for which a contract is awarded by the State. The bidder shall fully perform the contract in accordance with the all specifications, terms and conditions, and requirements contained in the Invitation for Bid and shall comply with all applicable provisions of the North Dakota Century Code Chapters 54-44.4, 46-02, 44-08 and North Dakota Administrative Code Chapter 4-12, made a part of the Invitation for Bid and contract by reference.

Written acceptance of the bidder's bid response by the State, by issuance of a purchase order or contract, constitutes a binding contract made and entered into by and between the State of North Dakota, acting through the Purchasing Agency named above, and the bidder named below:

Bidder Company Name:			
Street Address:			
P.O. Box:	City	State:	Zip Code:
Toll Free Telephone:	Telephone:	Fax:	
Federal I.D. or Social Security No.:		E-Mail:	
Type or Print Name of Person Signing:		Title:	
Authorized Signature:			
Acceptance (For State Use Only) Bid response accepted and contract awarded.			
By _____		Title _____	
Signature _____		Date _____	

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Mailing Instructions

Mail a completed and signed Invitation for Bid response in a sealed envelope to the address listed below. Bid responses received after the date and time specified on the cover sheet of this Invitation for Bid will be rejected. Address the envelope containing your response in the following manner:

BID NUMBER - **201-1061-33**
BID OPENING DATE - **April 18, 2011 2:00 PM CDT**
Department of Public Instruction
600 E Boulevard Ave., Dept. 201
Bismarck, ND 58505-0440

Bidder Checklist. Have you remembered to:

- Review all instructions, terms and conditions, and specifications to ensure your bid response complies?
- Prepare your price in the specified unit of measure, F.O.B. Destination, Freight Prepaid to the delivery location listed on the cover sheet?
- Indicate whether you can meet the delivery date indicated on the cover sheet?
- Sign your bid response on the cover sheet?
- Initial all changes and corrections?
- Submit any required samples or enclosures, if applicable?
- Mark the envelope as indicated above?

Bidder's Instructions

1. **Addition of Terms and Conditions.** Additional terms and conditions submitted with a bid response are of no effect unless accepted in writing by the Purchasing Agency. Bids with any additional terms and conditions may be rejected as non-responsive.
2. **Assistance to Bidders with a Disability.** Bidders with a disability that need an accommodation must contact the Procurement Officer prior to the deadline for receipt of bids so that reasonable accommodation can be made.
3. **Bid Held Firm.** Bids are not awarded at the bid opening. Bid responses will be firm for 30 days, unless otherwise specified by the Procurement Officer in writing.
4. **Bid Opening.** All bids received by the time and date of the bid opening will be publicly opened by the Purchasing Agency at the location indicated on the cover sheet of this solicitation. Interested parties are invited to attend the bid opening.
5. **Bid Results.** Bidders desiring a copy of the bid results are instructed to include a self-addressed, stamped, envelope with their bid response. Bid results will be mailed when an award decision is made. Bidders may also obtain bid results or arrange to review the bid file by contacting the Purchasing Agency.
6. **Corrections.** The bidder's authorized representative must initial any corrections and alterations (i.e. erasures, whiteouts, correction tape, etc.) made to the bid response. Those bid responses with corrections and alterations that are not initialed are subject to confirmation by the Procurement Officer.
7. **Definitions:**
 - Bidder any person or firm submitting a competitive bid in response to a solicitation.
 - Bid Results a summary of all bid responses received and the award results
 - Bid response the executed document submitted by a bidder in response to a solicitation.
 - Contractor any person or firm having a contract with a governmental body.
 - Solicitation the process of notifying prospective bidders that the State wishes to receive bids for furnishing goods.

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8. **Facsimile Bids.** Bid responses faxed to the Purchasing Agency will be rejected. Bids may be faxed to a third party who will put it in a properly-addressed envelope and deliver it to the Purchasing Agency before the date and time specified in the solicitation.
9. **Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the Purchasing Agency prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected regardless of the degree of lateness or the reason.
10. **Minor Informalities.** The State reserves the right to waive minor informalities in bid responses in accordance with N.D.A.C. 4-12-10. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the bid document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other bidders.
11. **Multiple Bids.** Bidders may submit more than one bid in response to this solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.
12. **Packaging.** All commodities and equipment are to be delivered and packaged strongly and securely according to accepted commercial practices.
13. **Prices, Currency.** All prices must be in United States currency.
14. **Pricing (Unit and Total Prices).** The unit price is to be according to the unit of measurement specified in the solicitation. In the event of mathematical differences between the unit price and extended total, the unit price will prevail.
15. **Protests.** An interested party may protest the solicitation within seven days before the bid opening or protest the Notice of Intent to Award or the award within seven days after receiving notice in accordance with N.D.C.C. § 54-44.4-12 and N.D.A.C. 4-12-14. Notice of award will be issued only to those bidders who submitted responses to this IFB seven calendar days after award or issuance of the Notice of Intent to Award. It will be assumed that all interested parties knew or should have known all the facts surrounding the award.
16. **Questions and Clarifications.** All questions and requests for clarification regarding this solicitation must be addressed to the Procurement Officer referenced on the cover sheet of this document. The requirements of this solicitation can only be altered by written amendment of the solicitation. Verbal communications from whatever source are of no effect. Questions must be received by the deadline specified on the cover sheet to allow the Procurement Officer to issue any needed amendments in sufficient time before the bid opening date.
17. **Review of the Bids.** After the bid opening, bids become subject to North Dakota open records laws. Interested parties may request public information and make arrangements to review the bid file by contacting the Procurement Officer during normal working hours, between 8:00 a.m. and 12:00 pm and 1:00 pm and 5:00 pm., Monday through Friday, excluding holidays.
18. **Rejection.** The State reserves the right to reject any and all bids in whole or in part. Bid responses will be rejected if:
 - the bid response is not legible.
 - the bid response is not completed as requested.
 - the bid response is faxed to the Purchasing Agency
 - the bid response is not responsive to the specifications or other requirements of the solicitation.
 - the bid response is received after the time and date specified.
 - the bidder was required to be registered as an approved bidder by the deadline for receipt of bids, and failed to do so.
 - the bidder is determined to be not responsible, in accordance with N.D.A.C. 4-12-11-04.
20. **Signature.** The bidder submitting the bid response or that bidder's duly authorized agent or representative must sign the bid response manually in ink. The name and title of the person signing the bid response must be typed or printed below the signature.

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21. **Specifications, Brand Name or Equivalent.** Unless otherwise indicated in the detailed specifications of this solicitation, the use of a specific brand name or make/model is for illustrative purposes only, and the State will consider equivalent products. If a commodity or service put forth by a bidder is rejected as not being equivalent, the Procurement Officer will notify the bidder of the rejection.
22. **Specifications, Compliance.** All bids submitted in response to this Invitation for Bid must comply with the specifications contained herein, and the successful bidder will be held responsible. Noncompliance with specifications is grounds for rejection of the bid response. Bidders who desire to submit commodities or services that deviate from these specifications or have any objections to the specifications stated herein must contact the Procurement Officer in writing as soon as possible, so the Procurement Officer can determine whether the specifications need to be amended.
23. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-70-0010K. The Purchasing Agency will furnish a tax exempt certificate upon request.
24. **Withdrawal or changes to a bid response prior to the bid opening date and time.** Before the bid opening date and time, the bidder's authorized representative may withdraw or change a bid response by making a written request to the Procurement Officer.
25. **Withdrawals after the bid opening date and time.** After the opening, no changes may be made to the bid response. The bidder may make a written request to withdraw the bid response, subject to approval by the Purchasing Agency. Bidders repeatedly withdrawing bids after the opening date may be removed from the State bidders list.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees without regard to race, color, religion, sex, national origin or physical handicap.
2. **Applicable Law and Venue.** This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.
3. **Assignments and Subcontracts.** The contractor may not assign or otherwise transfer or delegate any right or duty without the State's express written consent. However, the contractor may enter into subcontracts provided that any such subcontractor acknowledges the binding nature of this contract and incorporates this contract, including any attachments. The contractor is solely responsible for the performance of any subcontractor. The contractor shall not have the authority to contract for or incur obligations on behalf of the State.
4. **Binding Contract.** The acceptance of a bid response in writing by the Purchasing Agency or Entity constitutes a contract between the bidder and the State. Written acceptance from the Purchasing Agency or Entity will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or Purchasing Agency or Entity will have no force or effect unless reduced to writing.
5. **Compliance with Laws.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including Title VI of the Civil Rights Act of 1964. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision.
6. **Compliance With Public Records Law.** The contractor understands that, except for disclosures prohibited under North Dakota open records laws related to confidentiality, N.D.C.C. § 44-04-18, the State must disclose to the public

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upon request any records it receives from contractor. The contractor further understands that any records which are obtained or generated by the contractor under this contract, except for records that are confidential under N.D.C.C. § 44-04-18, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. The contractor agrees to contact the State immediately upon receiving a request for information under the open records law and to comply with the State's instructions on how to respond to the request. Bid responses are exempt records until the time and date of the bid opening.

7. **Confidentiality.** The contractor agrees not to use or disclose any information it receives from the State under this contract that the State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the State. The State agrees not to disclose any information it receives from the contractor that has previously been identified as confidential and which the State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of the State and the contractor to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.
8. **Contract Amendment.** After a binding contract has been entered into, no changes (i.e. substitution of product or a price adjustment) may be made, unless prior written approval has been obtained from the Purchasing Agency or Entity.
9. **Inspection and investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and offered commodities or services, including but not limited to the firm, its facility, personnel, qualifications, and the commodities and/or services offered to make determinations regarding compliance with the bid requirements and responsibility of the bidder.
10. **Material and Workmanship.** All material and workmanship shall be subject to inspection and testing by the State either at: the point of manufacturer, place of storage, or upon receipt.
11. **Payment Terms.** Payment will normally be made within thirty days after delivery and acceptance of commodities under this contract and receipt of a correct invoice. All invoices and payment inquiries must be directed to the Purchasing Agency or Entity.
12. **Termination for lack of funding or authority.** This contract shall become null and void, in total or in part, should the Legislature of the State of North Dakota fail to appropriate funds for any or all agencies, which are committed to the terms of this contract. Any such contract termination shall be at no cost to the State.
13. **Termination of Contract**
 - a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
 - b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
 - 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - 3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

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c. Termination for Cause. The State by written notice of default to the contractor may terminate the whole or any part of this contract:

- 1) If the contractor fails to provide services required by this contract within the time specified or any extension agreed to by the State; or
- 2) If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms.
- 3) The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

d. Termination, Deliveries. If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity

SPECIAL TERMS AND CONDITIONS

1. **Approved Bidder Registration.** Every person or business entity that desires to bid on contracts for commodities must be an approved bidder in order to be placed on the bidders list. Bidders must comply with the bidder registration requirements related to approved bidder registration as set forth in N.D.C.C. § 54-44.4-09 and this solicitation:
 - **Bidders Must Be Approved Before Contract Award.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder will be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Approved Bidder Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov/spo for assistance. The successful bidder must register and become approved within sixty calendar days or shorter time specified in writing by the purchasing agency from the date of the Notice of Intent to Award. The bid may be rejected if the bidder fails to register within the specified time period.

Placement on the bidders list does not guarantee a bidder will receive notice of every formal solicitation. Bidders must maintain current information by submitting a Notice of Change form to the State Procurement Office (Fax 701-328-1615). Visit the website for forms: www.nd.gov/spo/vendor.

2. **Award.** Award will be made to the responsible bidder with the lowest priced bid that is responsive to the specifications and all other requirements stated herein. Award will be made as follows:
 - All or none.
3. **Delivery.** The contractor shall deliver commodities ordered under this contract as follows:

Booth Delivery Service
1502 1st Avenue N #1
Fargo, ND 58102-4278
701-235-0096

- Delivery is required by the date indicated on the cover sheet of this solicitation.

If delivery requirements cannot be met by the specified time, the bidder **must** notify the Purchasing Agency in writing of the delay and the approximate date delivery may be expected.

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4. **F.O.B. Point and Freight.** Delivery and passage of title under this contract shall be as follows.

Booth Delivery Service
1502 1st Avenue N #1
Fargo, ND 58102-4278
701-235-0096

- Delivery will be F.O.B. Destination, any North Dakota location. The freight is to be included in the price of the products. Title will pass to Purchasing Agency or Entity upon delivery to the specified destination.

5. **Pricing.** Pricing under this contract shall be as follows:

Firm Fixed. The total bid price is to include all discounts and deductions, and is to be less federal and state taxes, for which exemption certificates will be furnished upon request. Pricing shall be firm for the period of the contract.

6. **Purchasing Cards.** The Purchasing Agency may place orders by issuance of a purchase order or may elect to place an order and make payment using a purchasing card. The contractor will accept a purchasing card without passing the processing fees for the purchase card back to the Purchasing Agency.

BID RESPONSE

ITEM NO.	QTY	UNIT	DETAILED SPECIFICATIONS	UNIT PRICE	TOTAL PRICE
1.			BID IS FOR EXACT AMOUNT -- STATE WILL NOT PAY FOR OVERRUNS AND WILL ACCEPT UNDERRUNS.	\$	\$
2.	12,500	EACH	Super One Tote Box with cutout handles in both ends of box Approximate Size: 19 1/4" x 11 9/16" x 10 7/8" Super O or equivalent box – plain, no print		

Bidders proposed delivery time:	ARO
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