



MNSITE: A Legal Overview

Department of Administration| MNIT Services

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- What is MNSITE?
- Vendor Requirements for MNSITE
- MNSITE Contract Types
- State CPV Program
- Legal benefits of MNSITE
- How to get started with MNSITE

- Master Contract Program for professional/technical IT services
- MNSITE went live in 2018, and is available until 2023
- IT professional services include:
 - Developers
 - Business Analysts
 - Quality Assurance/Quality Control
- Vendors pre-solicited through competitive means
- Work includes deliverables based projects or staff augmentation

- MNSITE is continuously open for vendors to apply to the program
- Vendors are scored based on questions related to company history, recruiting practices, and depth of IT services provided
- Vendors need an average score of 70 out of a possible 100 for acceptance into the program
 - Vendors, if not accepted, may debrief with OSP regarding scoring and reapply after a specified wait period
- Master Contracts are executed for all vendors accepted into the program, making them eligible to provide specific services as requested

- An “umbrella” document which contains general terms & conditions such as:
 - Liability options
 - Statutory requirements (e.g. Equal Pay, retainage)
 - Insurance levels
- Master Contracts have no specific dollars attached (unencumbered)
- No work can be completed with just a master contract
- A work order contract is required in order to encumber funds and have a vendor provide specific services to a specific entity

- A work order contract is issued from a Master Contract following Master Contract rules
- Legally binding document obligating the selected vendor to do work which incorporates:
 - The T&Cs of the vendor's Master Contract
 - Specific dollars for the outlined work (encumbered)
 - Specific tasks to be accomplished
 - Details on how the vendor will be compensated

- Minnesota's Cooperative Purchasing Venture (CPV) program allows eligible entities to purchase goods, certain services, and utilities from contracts established by OSP
- The CPV program creates a legal relationship where eligible entities can use contracts just like state agencies
- Legislation passed in 2009 encourages all municipalities to utilize the state's contracts available under the CPV program

Subd 1: Agreement.

Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units.

Subd 10: Services performed by governmental units; commonality of powers.

Notwithstanding the provisions of subdivision 1 requiring commonality of powers between parties to any agreement, the governing body of any governmental unit as defined in subdivision 1 may enter into agreements with any other governmental unit to perform on behalf of that unit any service or function which the governmental unit providing the service or function is authorized to provide for itself.

§16C.03 subd. 10: **Cooperative purchasing.**

The commissioner is authorized to enter into a cooperative purchasing agreement for the provision of goods, services, construction, and utilities in accordance with section 16C.105.

§16C.105 **Cooperatives authorized.**

The following entities are authorized to enter into cooperative purchasing agreements with the commissioner in accordance with section 16C.03, subdivision 10:

- (1) one or more other states or governmental units, as described in section 471.59, subdivision 1;

- MnSITE went live in 2017
- MnSITE is continuously open for vendors to apply for a Master contract
- Vendors need an average score of 70% for acceptance into the program. This is based on the median scores of current vendors.
- If not accepted, vendors may reapply once at any time, and if not accepted a second time, they must wait 6 months

Admission to the Program

- Company History
- Ability to providing IT services
- Approach to providing IT services
- Recruiting process
- W2s vs. 1099 resources
- Ongoing training and support for resources
- Percentage mark-up on resources

Work Order Contract

- Company history as related to the request
- Staff management approach
- Resumes of the resources

- First, decide on your anticipated budget
- Then, use one of the following options:
 - Direct-select: Choose a vendor based on your entity's established purchasing limits. A request is sent to a single vendor. Competition with multiple vendors can be introduced at any dollar level
 - Request for Offers (RFO): A request is sent to all eligible vendors in the MNSITE program, using a sealed response process

- Pre-negotiated terms and conditions
- Procurement experience and oversight is provided by state agencies fluent in state contracting law
- State provides contract administration and ensures vendors are maintaining insurance and following other contract requirements
- Vendors are pre-vetted to ensure qualification

- §16C.08 subd. 10: no more than 90% of the amount due under the contract may be paid until the final product has been reviewed
- Leverage to ensure you are getting what you are paying for
- Provision is in both the master contract and in the work order contract
- All vendors have already agreed to follow the retainage practice

- The State/CPV member generally owns all materials created and paid for under the contract
 - (inventions, improvements, discoveries, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes and discs)
- Contractor has a duty to notify authorized representative about any invention, improvement or discovery
- We do NOT own contractor's pre-existing IP

- The contract requires the contractor to maintain the insurance described in the RFP document
- The state collect insurance certificates and keep them with the contract file
- Insurance certificates expire—we make sure insurance stays up to day

- The contract requires the contractor to maintain the insurance described in the RFP document
- It is the agency's responsibility to collect insurance certificates and keep them with the contract file
- Insurance certificates expire—make sure to ask for new ones
- You can adjust insurance requirements. If reducing them, you must explain that you accept the risk to OSP. New insurance levels should be outlined in the contract.

- Contract has agreed to save and hold harmless the State, its agents and employees caused by Contractor's:
 - Intentional, willful, or negligent acts or missions; or
 - Actions that give rise to strict liability; or
 - Breach of contract or warranty
- Indemnification provisions do not apply ONLY when the claim or cause of action is the result of the State (or CVP member's) sole negligence

- Government Data Practices
- State Audits
- Conditions of Payment
- Human Rights
- E-Verify
- Governing Law

- CPV decides on scope of work in the work order contract
- CPV decides on dates of the engagement
- CPV decides on compensation and payment structure
- The State will provide assistance as needed to set up your work order contract in a way that works for your organization

- Brief information about your IT need in order to engage with the vendor, like:
 - a description of the work to be done
 - requirements you have for the vendor
 - timelines, etc.
- To start your request, contact mnsite.mnit@state.mn.us or call 651-201-3074

- Program administrators will provide you with access to the MNSITE system
- Documentation and training materials are provided on the CPV website
- Program administrators will help to guide you through the process by:
 - Working with to finalize the request
 - Contacting you to let you know when you can expect to receive responses and next steps

- Vendor Performance Report (VPR) Process—if there are contractor issues you can use your system to file a VPR. A state team will address issues with the contractor and involve you as necessary
- Consequences for bad performance including removal from the program, suspension and debarment
- The state is ready and willing to assist with contract management issues

- For more information on the program contact mnsite.mnit@state.mn.us or call 651-201-3074

