

# ***Colorado Department of Higher Education and the Colorado Commission on Higher Education***



## ***Request For Information***

***Colorado Department of Higher Education***

1560 Broadway, Suite 1600

Denver, CO 80202

August, 2008

## **GENERAL INFORMATION**

The Colorado Department of Higher Education, in conjunction with the Colorado Commission on Higher Education (CCHE), is soliciting information from qualified private higher education institutions to participate in the College Opportunity Fund (COF) program. This program provides funds for undergraduate students to pursue a college degree. Potential bidders should know that the CCHE is exempt from state procurement. The purpose of this RFI is to provide information in a format familiar to contractors, but not restricted by state rules.

The purpose of the program is to bring awareness to students that state funds exist to help finance their college education. In the 2004 Legislative Session, the Colorado General Assembly passed Senate Bill 189, the College Opportunity Fund. This landmark piece of legislation sets up a trust fund for Colorado resident undergraduate students who attend publicly funded higher education institutions. In addition, the law allows Pell eligible Colorado resident undergraduate students who graduated from a Colorado high school attending qualified private higher education institutions that apply to participate and are approved by the Commission on Higher Education to receive funds from the State at 50% (half) of the amount of funds provided to students attending public higher education institutions.

The purpose of this Request for Information (RFI) proposal is to identify private institutions of higher education that qualify and are interested in participating in the College Opportunity Fund. This solicitation will not be limited to a single vendor, but in accordance with law, will allow private institutions to express an interest in participation in the program and allow them a method to prove that they qualify for the program according to law.

The Department anticipates that a Request for Information will be issued annually to allow private higher education institutions the opportunity to participate in the program. Requests to participate in the College Opportunity Fund program from private institutions will not be accepted outside of this solicitation. This process accomplishes the spirit of the law and allows the Department and the Commission to estimate the cost of including private institutions in the annual budgeting process.

All private institutions of higher education that do qualify for the program must agree to complete a contract on performance criteria with the Commission on Higher Education and the Department. Even if a private institution meets all other criteria in law and this Request for Information, it may not participate in the program until both parties have signed a performance contract. After evaluating proposals from Bidders, the Department will select the Contractor(s) whose proposal addresses the requirements and specifications of this RFI.

This RFI is in accordance with the Colorado Revised Statutes, the Department of Higher Education procurement policies and procedures, State Purchase Order terms and conditions, and the special provisions clauses contained in State of Colorado contracts.

## **INTRODUCTION**

Responses will be evaluated on the basis of how well each information set provided by a private institution of higher education provides proof of the private institution's ability to meet the specified criteria in law and this RFI for inclusion in the COF program. There will be no public notification or opening and reading of responses received by the DHE/CCHE pursuant to this RFI.

## **INSTRUCTIONS TO BIDDERS**

To be eligible for an award under this RFI, a private institution of higher education must prove that it meets all requirements in the specification section of this RFI. In addition, the students who attend the institution must meet the criteria required by law for the institution to qualify.

- All costs associated with the development or submittal of a proposal in response to this RFI or to provide oral or written clarifications shall be borne by the Bidder. Neither the State of Colorado nor the Department of Higher Education will assume responsibility for any costs incurred by the Contractor associated with the development or submission of a proposal.
- All proof of qualifications submitted will be considered to be the institution's best response to this RFI, and unless requested by the Department, no additional documentation will be permitted.
- An RFI will be issued annually to allow private institutions of higher education to qualify for the College Opportunity Fund program.
- It is intended that an award pursuant to this RFI will be made to all qualifying Contractors, who will assume total responsibility for all aspects of the program.
- A Successful Bidder will be required to accept the State of Colorado standard contractual provisions (example below). It will also be required to negotiate and complete a performance contract with the Department and the Commission before being included in the COF program.

### **COLORADO SPECIAL PROVISIONS FOR CONTRACTS:**

1. **CONTROLLER'S APPROVAL.** CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. **FUND AVAILABILITY.** CRS 24-30-202 (5.5)

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

**3. INDEMNIFICATION.**

The Contractor 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 Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

**4. INDEPENDENT CONTRACTOR. 4 CCR 801-2**

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. 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 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 WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED 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.

**5. NON-DISCRIMINATION.**

The Contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

**6. CHOICE OF LAW.**

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall 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 will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

**7. VENDOR OFFSET. CRS 24-30-202.4**

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

**8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00**

No State or other public funds payable under this contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of the contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

**9. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507**

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

**10. ILLEGAL ALIENS – PUBLIC CONTRACTS FOR SERVICES.** CRS 8-17.5-101 and 24-76.5-101

The Contractor certifies that the Contractor shall comply with the provisions of CRS 8-17.5-101 et seq. The 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 the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. The Contractor represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, and (ii) otherwise will comply with the requirements of CRS 8-17.5-102(2)(b). The Contractor shall comply with all reasonable requests made in the course of an investigation under CRS 8-17.5-102 by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the State may terminate this contract for breach and the Contractor shall be liable for actual and consequential damages to the State.

A Contractor that operates as a sole proprietor hereby swears or affirms under penalty of perjury that the Contractor (i) is a citizen of the United States or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of CRS 24-76.5-101 et seq, and (iii) shall produce one of the forms of identification required by CRS 24-76.5-103 prior to the effective date of this Contract. Except where exempted by federal law and except as provided in CRS 24-76.5-103(3), a Contractor that receives federal or state funds under this contract must confirm that any individual natural person eighteen years of age or older is lawfully present in the United States pursuant to CRS 24-76.5-103(4) if such individual applies for public benefits provided under this contract.

**SPECIAL PROVISIONS- SIGNATURE PAGE FOR CONTRACTS**

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

**GOVERNOR**

\_\_\_\_\_  
Legal Name of Contracting Entity

By \_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Social Security Number or FEIN

Department of \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Officer

LEGAL REVIEW:  
\_\_\_\_\_  
ATTORNEY GENERAL

\_\_\_\_\_  
Print Name & Title of Authorized Officer

By \_\_\_\_\_

CORPORATIONS:  
(A corporate attestation is required.)

Attest (Seal) By \_\_\_\_\_  
(Corporate Secretary or Equivalent, or Town/City/County Clerk)

(Place corporate seal  
here, if available.)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

\_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

## **PROCUREMENT OBJECTIVE**

The purpose of this RFI is to allow the Colorado Department of Higher Education and the Colorado Commission on Higher Education to:

- Screen qualifying private institutions of higher education for participation in the College Opportunity Fund program by providing a formalized application process;
- Allow qualifying students who attend a private institution of higher education an opportunity to participate in the COF program; and
- To create a process whereby, on a continuing basis, students and the private institution of higher education that they attend can apply for the COF stipend.

## **PROJECT PHASES**

The Colorado Department of Higher Education and the Colorado Commission on Higher Education envision that the approval process for inclusion in the College Opportunity Fund program for private institutions of higher education, in general, will be as follows:

- August 2008 RFI opened to interested parties;
- September and October 2008 evaluation and awards of participation to private institutions of higher education;
- October 2008 begin work with Successful Bidders to develop data sets and requirements for the Student Unit Reporting Data System (SURDS) transfer required by the Commission and authorized in the law.
- November 2008 inclusion of requests for funding for qualifying private institutions of higher education in the Department's budget submission to the Colorado General Assembly;
- November and December 2008 performance contract negotiations with private institutions of higher education. Successful negotiations and signed contracts must be completed before students at private institutions of higher education may qualify for stipend payments; and
- Fall 2009 students receive payment for classes taken in the fall semester, and the College Opportunity Fund program becomes operational.

## **IMPLEMENTATION SCHEDULE (Updated 8/04/08)**

The following describes the estimated implementation schedule for the project. The Department reserves the right to adjust the schedule as necessary. Potential Contractors will be notified of any changes.

➤ RFI posted

August 2008

- Deadline for written questions from potential contractors September 8, 2008 @ 5:00PM (MDT)
- Contractor proposal submission deadline September 29, 2008 @ 5:00PM (MDT)  
At the Department of Higher Education
- DHE/CCHE proposal evaluation completion (estimated) October 2-13, 2008
- DHE/CCHE notification of successful award October 17, 2008
- Work with Successful Bidders on data needed for the Student Unit Reporting Data System (SURDS) October 17-24, 2008
- Begin performance contract negotiations with private institutions November 2008
- Complete performance contract negotiations. December 31, 2008
- Have Commission adopt/reject performance contract(s) for private institutions January 2009

## **CONTRACT TERM**

The contract shall begin on July 1, 2009 for the fall term of 2009 and shall be effective for 5 years, annually renewable, based upon available appropriations. If the Colorado General Assembly does not fund the provisions of this program, the Department reserves the right to cancel contracts made under this request for information. The contract must be signed by the Executive Director of the Department, by the Contractor, the Controller for the State of Colorado, and the State Attorney General's Office.

## **INQUIRIES**

Potential Bidders may make written or faxed inquiries concerning this RFI to obtain clarification of requirements. All inquiries are required to be in written format and submitted by the close of business (5:00 p.m.) on September 8, 2008.

**Send all inquiries to:**

John Karakoulakis  
Colorado Department of Higher Education  
1560 Broadway, Suite 1600  
Denver, CO 80202  
Fax Number: 303-866-4266

**AUTHORIZING AGENT**

All proposals must clearly indicate the name, title, mailing address, and telephone number of the Potential Contractor's authorized agent with the authority to bind the Potential Contractor to the provisions of the bid and to answer official questions concerning the proposal. Proposals must be signed by an officer legally authorized to bind the Potential Contractor to its proposal. Three copies of the proposal must be submitted.

**ACCEPTANCE OF RFI TERMS**

Proposals submitted in response to this RFI shall constitute binding offers. A submission in response to this RFI acknowledges acceptance by the Contractor of the terms and conditions of the State of Colorado contract provisions and the ability of the Contractor to provide the services and products set forth in the Contractor's proposal.

**CONFIDENTIAL/PROPRIETARY INFORMATION**

Any requests for nondisclosure of trade secrets or proprietary data should be submitted with the proposal.

**RFI CANCELLATION**

The Department of Higher Education/Colorado Commission on Higher Education reserves the right to cancel this RFI at any time, with or without cause, without penalty.

**INSURANCE**

1. The Contractor shall obtain and maintain at all times during the term of the Agreement insurance in the following kinds and amounts:
  - a. Standard Worker's Compensation and Employer Liability as required by the Colorado Revised Statutes, including occupational disease, covering all employees on or off the work site, acting within the course and scope of their employment.
  - b. General, Personal Injury, and Automobile Liability (including bodily injury, personal injury, and property damage) minimum coverage:
    - (1) Combined single limit of \$600,000 if written on an occurrence basis.

- (2) Any aggregate limit will not be less than \$1,000,000.
  - (3) Combined single limit of \$600,000 for policies written on a claims-made basis. The policy shall include an endorsement, certificate, or other evidence that coverage extends two years beyond the performance period of the contract.
  - (4) If any aggregate limits are reduced below \$600,000 because of claims made or paid during the required policy period, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.
2. The State of Colorado shall be named as additional insured on all liability policies.
  3. The insurance shall include provisions preventing cancellation without 60 days prior notice to the State by certified mail.
  4. The Contractor shall provide certificates showing adequate insurance coverage to the State within seven (7) working days of award or contract execution, unless otherwise provided.
  5. If the Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*, as amended, the Contractor shall at all times during the term of this contract maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the State, the Contractor shall show proof of such insurance.

### **FUNCTIONAL REQUIREMENTS/SPECIFICATIONS**

The College Opportunity Fund program provides a mechanism for students at certain types of private institutions of higher education to receive stipends. In order to qualify, the student and the respective institution must meet statutory definitions. These definitions can be found in the definition section of 23-18-102 (5)(a)(II)(A)(B)(C)(D),(7),(8) Colorado Revised Statutes (C.R.S.). In addition, the enabling legislation for the College Opportunity Fund program requires private institutions of higher education to meet various other requirements that are covered in this document.

The stipend that will be paid to a private institution of higher education on behalf of an eligible student shall be paid on a per credit hour basis. The per credit hour payment to qualifying private institutions will be 50% (half) of the per credit hour payment made on behalf of students at public institutions. This percentage may be adjusted in future years at the sole discretion of the Colorado General Assembly.

## **RFI QUALIFICATIONS AND REQUIREMENTS FOR PRIVATE INSTITUTIONS OF HIGHER EDUCATION**

**Bidder and its respective students must meet the following requirements:**

### **Students:**

1. All qualifying students must be classified as “in-state” for tuition purposes (23-18-102 (5) (a) (II) (A) C.R.S.).
  - a. The student must be classified as in-state for tuition purposes in accordance with C.R.S. 23-7-101 to 23-7-107. Refer to the "Tuition Classification Guidelines" and Commission policies <http://highered.colorado.gov/Publications/Policies/Current/vi-partb.pdf> for assistance in making tuition classification decisions.
2. Each student must be a graduate of a Colorado high school or have successfully completed a nonpublic home-based educational program as provided in section 22-33-104.5, C.R.S (23-18-102 (5) (a) (II) (B) C.R.S.).
  - a. A private institution must provide documentation on standardized institutional forms that proves how it verifies that students have graduated from high school and from what state. It is important to prove that the institution has a process that monitors this requirement and that every student is screened for this requirement.
3. Each student must demonstrate financial need through the student’s eligibility for the Federal Pell Grant or its successor program (23-18-102 (5) (a) (II) (C) C.R.S.).
  - b. The private institution must require the completion of a Free Application for Federal Student Aid (FAFSA) for each student who wishes to participate. The resulting FAFSA documentation must show student eligibility for Pell funding based on a valid FAFSA. This documentation must be kept on file by the institution for each of its students who participate in the COF program for auditing purposes.

### **Private Institution:**

4. The private institution of higher education must agree to enter into a performance contract with the Colorado Department of Higher Education, as approved by the Colorado Commission on Higher Education, as a precondition of participating in the College Opportunity Fund program (23-5-128/129 and 23-18-201 C.R.S.).
  - a. The private institution of higher education responding to this request must include an affirmative statement in its response about its intention to successfully complete a performance contract with the Department and that it recognizes this as a key requirement of participation.
5. The private institution of higher education must agree to participate and provide data to the Colorado Department of Higher Education’s Student Unit

Reporting Data System (SURDS) in the amount and quantity required by the Department. Further, as required by law, the private institution is responsible for any costs related to including it in the SURDS system which may include computer hardware, software, and staff time and charges (23-18-201 (2) C.R.S.).

- a. Upon request, the Department will provide to a private institution of higher education the data sets required for participation. This may be done by referring the institution to a website that contains such information.
6. The private institution of higher education must be “a not-for-profit college or university” (23-18-102 (9) C.R.S.) which shall be interpreted to mean a non-profit business with an Internal Revenue Service designation as such under section 501 (C) (3) or other related sections of the code (23-18-102 (9) C.R.S.).
    - a. The private institution must submit financial or legal documentation that the institution is a non-profit entity for tax and operational purposes and is in full compliance with The Degree Authorization Act (23-2-101, ET SEQ., C.R.S.).
  7. The college or university must maintain its primary place of business in the State of Colorado (23-18-102 (9) C.R.S.).
    - a. The institution will provide the Commission with a copy of its articles of incorporation, a copy of its by-laws, and a copy of its filing with the Colorado Secretary of State. The institution must also be currently identified as a Colorado-based private institution as determined by the Commission’s Annual Survey of Colleges and Universities authorized to operate in Colorado under C.R.S. 23-2-101.
  8. The college must offer general Baccalaureate degrees in the Arts and Sciences (meaning the institution must offer a broad spectrum of majors in the Arts and Sciences) (23-18-102 (9) C.R.S.).
    - a. The private institution of higher education must submit a list of the currently approved majors offered in the Arts and Sciences, including any combined or distributed majors offered through more than one department.
  9. The private institution must be regionally accredited by one of the six national accrediting agencies (23-18-102 (9) C.R.S.).
    - a. The institution will provide the Commission with an official copy of its most recent “Statement of Affiliation Status” issued by the regional accrediting association that accredits the institution.

This document represents the requirements and specifications required for private institutions to participate in the College Opportunity Fund program. Stipends will not be made available for those students attending institutions under an interstate agreement. The maximum number of hours a student may receive payments for under the program is

145 credit hours. All bidders are advised to thoroughly read the College Opportunity Fund Act and understand all provisions of the Act.