

**REQUEST FOR BIDS**  
**FOR COLORADO PREMIUM TAX CREDITS**  
**ON BEHALF OF**  
**THE VENTURE CAPITAL AUTHORITY (VCA)**  
**C/O Colorado Office of Economic Development**  
**and International Trade (OEDIT)**

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## **I. BACKGROUND**

In 2004, the General Assembly authorized the creation of a Venture Capital Program (Program) and the Venture Capital Authority (VCA) to oversee the Program. The Colorado Office of Economic Development and International Trade (OEDIT) currently is providing staffing for the VCA.

The General Assembly authorized \$50 million in Colorado Premium Tax Credits (PTCs) to be allocated to the Program. The VCA will obtain cash from insurance companies in exchange for the PTCs and will use this cash to invest in a venture capital fund(s) [Fund(s)] managed by a fund manager(s).

The VCA is requesting bids from insurance companies for the sale of PTCs as described herein. The VCA will select the highest bids from an insurance company(ies) and execute a contract with the selected insurance company(ies). The selected insurance company(ies) will pay cash to the VCA and receive the amount of PTCs on the specified date(s) according to the requirements of the contract(s) and authorizing legislation (statute).

Prospective Insurance Companies (PICs) should carefully review the statute, C.R.S. section 24-46-204 for this program. The statute may be found on OEDIT's website located at [www.state.co.us/oed](http://www.state.co.us/oed) under Business Development and Finance/Venture Capital Authority. All submittals should be responsive to the requirements of the statute and to this Request for Bid (RFB). Please note that all requirements of the statute have not been included specifically in this RFB. The purpose of this RFB is to furnish information to PICs for their use in preparing a competitive bid.

## **II. TIMELINE**

The RFB timeline for selecting a bid from an insurance company(ies) is as follows:

The conference call-in number for participation in the Pre-Bid Telephone Conference is 1-800-857-4839, you will need to know the leader's name is "Alice Kotrlik" and the passcode is "VCA". If you have trouble calling in for the conference please contact Bette Brennan at 303-892-3792.

|                                   |                                |
|-----------------------------------|--------------------------------|
| RFB Release Date:                 | November 30, 2004 by 5:00 p.m. |
| Submittal of PIC's Questions:     | December 31, 2004 by 5:00 p.m. |
| Pre-Bid Telephone Conference:     | January 18, 2005 at 2:00 p.m.  |
| RFB Response Deadline:            | February 15, 2005 at 5:00 p.m. |
| VCA Evaluation of Bids:           | March 15, 2005 by 5:00 p.m.    |
| Notification of Bid Selection(s): | March 16, 2005 by 5:00 p.m.    |
| First payment of cash due:        | April 30, 2005 by 5:00 p.m.    |

Note: All times listed are in Mountain Daylight Time or Mountain Standard Time, as appropriate.

### **III. INSTRUCTIONS**

- A. All questions concerning the RFB should be submitted to John Reece by emailing [john.reece@state.co.us](mailto:john.reece@state.co.us) with “RFB Questions” in the subject line. All questions must be submitted by December 31, 2004 at 5:00 pm. Questions and answers will be provided during the Pre-Bid Conference on January 15, 2005.
- B. Each bid from a PIC must include complete responses to all of the items contained in Section V. It is preferred that respondents use a font size of 12 and “times new roman” text style. Items submitted in response to the RFB should be numbered in the submitted bid(s) according to the numeration contained in Section V of the RFB. Clear cross-references are permitted and encouraged to avoid duplicative responses. Reference and attach all schedules, inserts or supporting documentation as part of the submittal.
- C. One original and two copies of a PIC’s complete bid will need to be submitted on or before 5:00 pm on February 15, 2005 to the VCA, c/o the Colorado Office of Economic Development and International Trade, 1625 Broadway, Suite 1700, Denver, Colorado 80202 via hand delivery or delivery with a signature of receipt required.
- D. All responses to the RFB shall become the property of the VCA. If desired, the VCA shall maintain the confidentiality of documents submitted to it to the extent requested by the PIC in writing, provided that such request complies with the Colorado Public Records Act (C.R.S. 24-72-201). Confidential/proprietary information in the proposal must be clearly stamped as “CONFIDENTIAL”.
- E. The VCA reserves the right to reject any or all bids and to waive informalities and minor irregularities in bids received. The VCA reserves the right to: cancel, delay or re-open this solicitation; and reject any or all bids or award the contract to the next most qualified bidder(s) if the insurance company(ies) originally selected does not execute a contract acceptable to the VCA and its general counsel within a reasonable timeframe.
- F. The selected PIC(s) will assume responsibility for the performance of making all cash payments to the VCA, in accordance with the terms of a contract to be executed with the VCA, unless a sale or transfer of the PIC’s contract with the VCA is approved by the VCA prior to the sale or transfer.
- G. An insurance company making a bid for the PTCs shall have a Best’s financial strength rating of at least B++ and a positive or stable rating outlook for the last 5 years.
- H. The VCA shall issue PTCs to PICs in the order that PICs have offered to contribute the highest value per premium tax credit dollar requested on an aggregate basis first and then the next highest value requested on an aggregate basis until the VCA has issued five million dollars of PTCs for that year. In the event that more than one PIC offers to contribute the next highest value per premium tax credit dollar requested and the VCA does not have enough remaining PTCs to satisfy all those PICs’ offers at that value, then the VCA will pro-rate the PTCs to the PICs in a ratio of each PICs offer to the total PICs offer at that same value.

- I. The PTCs are saleable and transferable once per year and must be sold or transferred prior to December 31<sup>st</sup> to qualify for usage in that year's PTC liability.
- J. The VCA has been notified of a lawsuit filed against the State of Colorado, the Colorado Governor's Office of Economic Development and International Trade (OEDIT) and specific OEDIT staff--referred to as the Defendants hereafter. The lawsuit has been filed in the District Court, Denver County, Colorado under Case Number 04CV6287. Related to this Request for Bid, the plaintiffs (Newtek Business Services, Inc. and Wilshire Colorado Partners, LLC) are requesting that the court reinstate the \$50 million in premium tax credits to another program, the Certified Capital Companies Program, instead of as allocated to the Venture Capital Authority. The Defendants do not believe that this claim has any merit and evaluate the risk of such reinstatement at a very low risk. However, insurance companies are encouraged to seek their own legal counsel on this issue.

#### **IV. CASHFLOW FUNDING METHOD**

It is the VCA's preference that PICs provide a competitive, ten year bid for the PTCs available under this program as described herein. The VCA will allocate PTCs to the ten year bidders as outlined in the statute. In the event that the VCA does not receive sufficient bids to fully allocate the total amount of PTCs available using the ten year bid basis only, then the VCA will consider allocating the remaining PTCs for the years 2005-2009 based on five year bids for that period of time, submitted by PICs. The VCA will issue a new RFB at a later date for the remaining PTCs available for 2010-2014 if applicable.

PICs will need to pay the VCA for the first year of PTCs, which are available for use on the Colorado Premium Tax Return for 2005, by April 30, 2005 (or the next business day if April 30, 2005 falls on a weekend or state holiday), then for the second year of PTCs, which are available for use on the Colorado Premium Tax Return for 2006, by April 30, 2006 (or the next business day if April 30, 2006 falls on a weekend or state holiday) and so on. PICs may not bid less than \$.80 for each \$1 of Premium Tax Credits.

**Cash received by the VCA from its sale of PTCs in years 1-10**

This table assumes the selection of one insurance company (PIC); however, more than one PIC may be selected based on the highest value bids submitted. The first column represents the date that the PIC will pay cash for the PTCs. The second column represents the total amount of PTCs available for sale by the VCA. The third column is the first date a PIC may use the PTCs, for the prior year's premium tax liability. The fourth column represents the dollar amount of PTCs requested by the PIC. The fifth column represents the percentage of each premium tax dollar the PIC will pay to the VCA for the requested PTCs. The sixth column represents the annual dollar amount the PIC will pay to the VCA for the requested PTCs.

| Date Insurance Company Pays VCA | Total PTCs To Be Sold To PIC | Earliest Date Insurance Company May Use PTCs | Dollar Amount of PTCs Requested by the PIC | Percent Insurance Company Will Pay For Each Dollar of PTC | Dollar Amount Insurance Company Will Pay To VCA |
|---------------------------------|------------------------------|--|--|---|---|
| 4/30/2005                       | \$5,000,000                  | 1/1/2006                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2006                       | \$5,000,000                  | 1/1/2007                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2007                       | \$5,000,000                  | 1/1/2008                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2008                       | \$5,000,000                  | 1/1/2009                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2009                       | \$5,000,000                  | 1/1/2010                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2010                       | \$5,000,000                  | 1/1/2011                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2011                       | \$5,000,000                  | 1/1/2012                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2012                       | \$5,000,000                  | 1/1/2013                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2013                       | \$5,000,000                  | 1/1/2014                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| 4/30/2014                       | \$5,000,000                  | 1/1/2015                                     | Requested PTCs                             | Competitive Bid   | Competitive Bid                                 |
| Totals                          | \$50,000,000                 |  |  |   |   |

**V. PIC's INFORMATION**

**VENTURE CAPITAL AUTHORITY**

\_\_\_\_\_  
**Date and Time of Proposal Received**

\_\_\_\_\_  
**Signature of OED Representative**

- A. The PIC shall provide the PIC's Name (including any "assumed or doing business as" names), address, phone and fax number, website address, email address and any other pertinent contact information.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- B. The PIC shall provide the name, title and complete contact information of the authorized representative(s) for the PIC. Such representative(s) is the person who is authorized to execute documents on behalf of the PIC.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The PIC shall attach signature authorization documentation from the PIC that authorizes the representative to submit the RFB on behalf of the PIC and legally make representations on behalf of the PIC.**

**Label as Exhibit A.**

- C. The PIC shall make a timely and irrevocable offer pursuant to this bid proposal and the governing legislation (see section II for bid deadline). The offer shall include the requested dollar amount of PTCs, the year for which the PTCs are requested, and the PIC's specified contribution for each tax credit dollar requested which shall not be less than 80% of the requested amount of tax credits.**

Label as Exhibit B.

- D. The PIC shall provide the PIC's NAIC number. (National Association of Insurance Commissioners)\_\_\_\_\_
- E. The PIC shall indicate if the PIC has had a contract terminated for default to purchase any state tax credits in the last five years. Termination for default is defined as notice to stop performance, delivered to the PIC because of the PIC's nonperformance where the issues of nonperformance have been either (a) not litigated due to inaction on the part of the PIC, or (b) litigated and determined that the PIC was in default.

NOTE: if the PIC has had a contract terminated for default in this five-year period, the PIC must submit full details including the other party's name, address and phone number. The VCA will evaluate the facts and may, at its sole discretion, reject the proposal based on the bidder's past experience.

Label as Exhibit C.

- F. The PIC shall complete the attached certifications (Exhibit D).
- G. I hereby certify that I have read and understand the statute authorizing the PTCs and this RFB document, and that the information that has been submitted to the VCA and OEDIT for review is true and accurate.

Signature of the Authorized Representative of the PIC

\_\_\_\_\_

Name and Title of the Authorized Representative  
(Printed)

\_\_\_\_\_

Date

\_\_\_\_\_

## VI. METHOD OF SELECTION

Depending on the number of bid proposals submitted by PICs, either an evaluation committee with members designated by the VCA or the VCA will evaluate the proposals. A maximum \$5 million in PTCs annually will be available for PIC's use in tax years 2005 through 2014.

Selection(s) will be made in the order of the insurance company(ies) that have offered to contribute the highest value per tax credit dollar on an aggregate basis until the VCA has issued \$5 million of PTCs per year. Contributions shall be no less than 80% of the requested dollar amount of PTCs.

**Five year bids will only be considered in the event that the VCA does not fully allocate its PTCs to 10 year bidders as described within the statute and this RFB.**

**VII.**

**CERTIFICATIONS' FORM**  
**Exhibit (D)**

To be completed by the PIC:

I certify:

- A) That the submitted bid proposal, except for entities clearly identified as part of the bid proposal, has been arrived at independently without consultation, communication, or agreement with any other competing PIC.
- B) That unless otherwise required by law, the competitive proposal submitted has not been knowingly disclosed directly or indirectly to any other competing entity, nor will it be disclosed prior to the VCA's notification of insurance company(ies) selection.
- C) That no attempt has been or will be made to induce any other person or entity to submit or to withhold a proposal for the purpose of restricting competition for this RFB.
- D) That the VCA, its employees and agents, shall be indemnified, saved and held harmless, 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 PIC, or its employees, agents, subcontractors, or assignees pursuant to this RFB.
- E) That to my knowledge, no employee of the VCA or the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein within this RFB.
- F) That the PIC has no material or significant conflicts of interest related to this RFB submittal and if it does, it will disclose such conflicts immediately. That everything contained in this submittal is true and correct.

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PIC Name

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Printed Name and Capacity/Title

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Signature

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Date