

Request for Proposal

Minnesota Data Center Equipment Tax Expenditure Evaluation

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Section 1: Overview

The Legislative Budget Office (LBO), a nonpartisan and joint office of the Minnesota Legislature, requests proposals from qualified vendors to:

1. Document current Minnesota data center equipment tax expenditure impacts and assess performance, based on the tax expenditure objective identified by the Minnesota Tax Expenditure Review Commission (TERC) and in accordance with Minnesota Statutes 2024, section 3.8855, subdivision 5
2. Identify evaluation plan and timeline
3. Execute evaluation plan
4. Provide and present a written report of evaluation findings

Proposals are due by Monday, March 10th, 2025. Each proposal must contain the following:

1. Transmittal Cover Letter
2. Technical Proposal (detailed description of the vendor's plan to manage the project and accomplish the work identified in the Request for Proposal)
3. Past Project Experience and Relevant References
4. Background and Qualifications
5. Accessibility Standards
6. Other Services, If applicable
7. Cost Estimates

Proposals should be sent by email to:

Annie Lemieux
annie.lemieux@lbo.mn.gov

Section 2: Summary of Scope and Objectives

The LBO is soliciting services to evaluate the Minnesota Data Center Equipment Tax Expenditure. The tax expenditure is a general sales and use tax exemption applying to qualifying data centers. The evaluation must address the tax expenditure's ability to meet the stated objective and the impact of the tax expenditure.

The governing statute, Minnesota Statutes 2024, section 297A.68, subdivision 42(g), provides a statement of purpose for the tax expenditure. In practice, the commission has chosen to use the term "objective" instead of "purpose". The statute reads, "The purpose of this exemption is to create jobs in the construction and data center industries."

Evaluations are statutorily required to include the following components:

1. Provide an estimate of the annual revenue lost as a result of the expenditure
2. Identify the purpose of the tax expenditure if none was identified in the enacting legislation per Minnesota Statutes 2024, section 3.192
3. Estimate the measurable impacts and efficiency of the tax expenditure in accomplishing the purpose of the expenditure
4. Compare the effectiveness of the tax expenditure and a direct expenditure with the same purpose
5. Identify potential modifications to the tax expenditure to increase its efficiency or effectiveness
6. Estimate the amount by which the tax rate for the relevant tax could be reduced if the revenue lost due to the tax expenditure were applied to a rate reduction
7. If the tax expenditure is a significant tax expenditure, estimate the incidence of the tax expenditure and the effect of the expenditure on the incidence of the state's tax system
8. Consider the cumulative fiscal impacts of other state and federal taxes providing benefits to taxpayers for similar activities

Note that the Minnesota Department of Revenue (DOR) is statutorily required to provide summary data for components 1, 6, 7, and 8. The selected vendor may be asked to interpret information provided by the Minnesota DOR and collaborate with LBO staff on targeted information requests.

The selected vendor may be asked to provide information to the TERC or the LBO to assess progress and evaluation data. This includes, but is not limited to, attending TERC meetings to present to committee members, connecting with staff from the LBO, and targeting data requests. Work assigned to the vendor may also be impacted by decisions of the TERC.

Section 3: Proposal Content

1. Transmittal Cover Letter
 - a. Indication of intent to respond to this request for proposal (RFP) and acknowledgment of all terms, conditions, and specifications.
 - b. Provide a summary of the vendor's understanding of the project and ability to perform the requested services.
 - c. Contact information.
 - d. Signature.
2. Technical Proposal: detailed description of the vendor's plan to manage the project and accomplish the work identified in the RFP
 - a. Overall project approach.
 - b. The proposed project charter includes the objectives, scope, and responsibilities of the vendor.
 - c. Proposed Timeline: realistic schedule detailing the key tasks and milestones. This can be incorporated into the project charter if applicable.
 - d. Statement that clearly identifies the obligations and responsibilities that may be required of LBO staff, separate from payment for services and time, to help meet the timeline for the project.
 - e. Disclosure of any Artificial Intelligence (AI) usage or intention to utilize AI throughout the project.
3. Past Project Experience and Relevant References
 - a. Vendors must provide contact information of at least three reference organizations for which the vendor has provided similar services in the past five years who the LBO may contact.
 - i. Organization name, phone number, and address
 - ii. Organization contact, including name, title, phone number, and email address
 - iii. Description of services provided
 - iv. Date service was fulfilled
 - b. If there are any demonstration materials of other clients utilizing a similar suite of services provided by the vendor, the vendor may provide links and information detailing similar deliverables and past work.
4. Background and Qualifications
 - a. Organization Background:
 - i. General overview of the organization, including the number of employees and service offerings
 - ii. History, including the year established
 - iii. Qualifications and experience in providing services to complete projects for other organizations similar in size and scope to the project identified in this RFP – particularly those clients that are government or legislative entities
 - iv. Describe how the organization would maintain an objective, nonpartisan lens throughout the evaluation process
5. Accessibility Standards
 - a. The State of Minnesota requires all information and communication technology (ICT) conform to the [State of Minnesota Digital Accessibility Standard](#), which

comprises Section 508 of the federal Rehabilitation Act 1973 and Web Content Accessibility Guidelines 2.1. Your answers to the following questions attest to your ability to ensure that the State fulfills its legal and operational responsibilities:

- i. Describe how you ensure that your staff and contractors have the knowledge and skills to ensure that all materials are accessible within the scope of the project you're being asked to respond to.
- ii. Describe your approach for ensuring accessibility for your evaluation.
- iii. Provide links to websites or copies of documents or access to other examples of ICT work your organization has produced that meet accessibility standards. The materials must be relevant to the services and/or technical skills called for in this solicitation.

6. Other Services, if Applicable

- a. Any information and services that may not have been included in the scope of work outlined in this proposal but that the vendor deems of potential interest to the LBO. These services must contain a full description and subsequent cost estimates.

7. Cost Estimates

- a. Detailed cost proposal outlining all fees and other anticipated costs, including breakdowns by type of services provided (as appropriate) and type of cost inputs (e.g., labor, travel) within the service categories. Amounts quoted should be indicative of the best estimate anticipated amount, but amounts could also reference potential costs within low to high ranges as appropriate.
- b. The payments to the contractor are the sole compensation for services. Payment of federal income tax, FICA payments, and state income tax for any of the contractor's employees is the responsibility of the contractor.
- c. The contractor will invoice for services provided at periodic intervals as defined by the LBO and in an agreed format as negotiated.

Section 4: Eligibility, Evaluation Procedure, and Timeline

Eligible Applicants

This RFP is open to all entities possessing the appropriate capabilities, qualifications, and experience. The LBO may prefer an entity that has worked and is familiar with the Minnesota Legislature, however, this is not a requirement of potential vendors.

Consideration of Proposals

The LBO reserves the right to reject any or all proposals, the right to waive any irregularity, the right to enter into a contract that varies from the specifications or general conditions, and the right to negotiate at any time with those that submit proposals or with any other party. The LBO will not necessarily select the proposals that offer the lowest price; the LBO reserves the right to consider price, quality, reliability, convenience, and any other factors that the LBO deems relevant.

Timeline

Tuesday, February 18th, 2025: RFP issued

Monday, February 24th, 2025: Deadline for questions

Monday, March 3rd, 2025: Date LBO posts answers to vendor questions

Monday, March 10th, 2025: Proposal submission deadline

Section 5: Questions Regarding this RFP

All questions regarding the RFP must be submitted by 12:00 PM CT on Monday, February 24th, 2025. Questions are to be submitted by email to annie.lemieux@lbo.mn.gov.

Following the deadline for questions, a list of all questions received from all respondents will be compiled. Responses will be posted on the [LBO website](https://www.lbo.mn.gov/index.html) [<https://www.lbo.mn.gov/index.html>] by 5:00 PM CT on Monday, March 3rd, 2025.

Section 6: Proposal Instructions and Due Date

Proposals must be received by the LBO by 12:00 PM CT on Monday, March 10th, 2025. Electronic submission is preferred. Electronic documents can be e-mailed to the address below. Proposals are to be submitted to:

Attn: Annie Lemieux
annie.lemieux@lbo.mn.gov
Re: Proposal for Data Center Equipment Tax Expenditure Evaluation
Legislative Budget Office
658 Cedar St.
St. Paul, MN 55155

Proposals must be received by the specified deadline. Late submissions may not be accepted. All expenses incurred in responding to this request shall be borne by the responder.

All information provided in proposal submissions must remain valid and open for acceptance in all respects for a minimum period of 84 days after the deadline for submission.

Section 7: Overview of the Legislative Budget Office and the Tax Expenditure Review Commission

In 2021, the Minnesota Legislature established the Tax Expenditure Review Commission ([Minnesota Statutes 2024, section 3.8855](#)) to review Minnesota's tax expenditures and evaluate their effectiveness and fiscal impact. The chair and vice-chair alternate biennially between the Senate and the House of Representatives. The LBO provides professional and technical assistance to the Tax Expenditure Review Commission and [annually submits written reports](#) to the legislature on behalf of the commission, which began in December 2022. The LBO is a nonpartisan office within Minnesota's legislative branch that objectively evaluates proposed legislation to assess its potential impact on the state budget.

[The Tax Research Division of the Minnesota Department of Revenue](#) is required to provide the summary data on certain elements necessary for the commission's work. The LBO works closely with the Department of Revenue to provide support to the Tax Expenditure Review Commission.

Section 8: Background on Data Center Equipment Tax Expenditure and Current Evaluation Process

8.1 Evaluation Process

In general, an evaluation may consist of a qualitative analysis, such as participant surveys, a quantitative analysis of descriptive statistics, or a more complex econometric analysis. The choice among evaluation techniques is subject to the specific question at hand and the availability of information and data. Many tax expenditures are enacted with a unique legislative history and under specific circumstances. These factors should be considered as well to the best degree possible to provide a comprehensive assessment.

With respect to gathering relevant information collected by state agencies, the LBO can partner with the selected vendor to request and gain access to the necessary information.

8.2 Data Center Equipment Expenditure Background

Enterprise information technology equipment and computer software for use in a qualified data center are exempt from the sales and use tax. Electricity used or consumed in the operation of a qualified data center is also exempt.

To qualify, a data center must:

- Be comprised of one or more buildings consisting of at least 25,000 square feet.
- Must have a total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software of at least \$30 million within 48 months. For a refurbished data center, the investment must be at least \$50 million within a 48-month period.
- The facility that houses the enterprise technology equipment must have uninterruptible power supplies, generator backup power, or both sophisticated fire suppression and prevention systems, and enhanced security, as specified.

The exemption applies to purchases made within 20 years of the first qualifying purchase. The exemption is administered as a refund. This exemption was enacted in 2011, effective for sales and purchases made from July 1, 2012, through June 30, 2042. The requirements were modified in 2013.

A data center can generally be understood as a “facility that houses information technology infrastructure for building, running, and delivering applications and services, and for storing and managing the data associated with those applications and services.”ⁱ

The Minnesota Department of Employment and Economic Development (DEED) regulates qualifying data centers through square footage requirements, a required cost threshold of investment, and various equipment requirements. There are two main tax incentives that the expenditure has for data centers that impact the centers for 20 years. The first incentive is that data centers can purchase equipment and software and submit for a refund of the associated sales tax costs through a Sales and Use Tax Refund Request form. Qualifying data centers are also able to submit a blanket exemption certificate at the front end of construction to their utility provider at the time of construction to become exempt from costs related to electricity used or

consumed for any data center operations. The goal of this specific tax expenditure is to incentivize data centers to build and maintain operations in Minnesota. Further, because these expenditures apply to construction and refurbishment, the goal is to expand available jobs both in the data center industry and in the construction industry across the state.

Data center tax expenditures appear to exist at the state level without current federal expenditure regulations. Minnesota is one of 32 states that offer a data center-specific tax incentive. State incentives vary mainly by the amount required to invest in the data center to receive the associated tax incentive, as well as the length of time that the data center would qualify for incentives. Minnesota is at the lower end of investment requirements and the higher end for longevity of incentives.

Tax Expenditure Objective Approved by TERC on March 15, 2024.

The objective for qualified data centers receiving sales and use tax exemptions is to create jobs in the construction and data center industries.

Sources

The objective is based on the statement of purpose specified in [Minnesota Statutes 2024, section 297A.68, subdivision 42\(g\)](#).

Potential Metrics and Performance Measures

A full review may use data collected by DEED during the certification process, sales tax refund data collected by DOR, or a survey of qualifying data centers to estimate:

- The number and value of exemptions claimed by type (equipment, software, or utility exemptions)
- The number of new or refurbished construction projects undertaken but for the exemptions
- The number of new jobs created but for the exemptions
- Direct, indirect, and induced economic impacts
- Cost to administer the program
- The longevity of qualified data centers

Other Considerations

Currently, 32 states offer tax incentives to attract or expand data centers. Sales tax exemptions are the most common incentive type, but qualifications, thresholds, and exempt items or services vary by state.ⁱⁱ

Evaluations performed by other states should be referenced to inform methodology and to understand comparative findings.

8.3 Roles and Responsibilities in the Evaluation Process:

Role	Responsibility
Evaluation Team Lead	Member of the LBO staff in charge of managing the designated evaluation project. Facilitate data requests and questions posed to the Minnesota Department of Revenue.
Program Evaluators	Members of the LBO staff supporting evaluation efforts.
Minnesota Department of Revenue (DOR)	Adhere to data requests by the evaluation team consistent with statutory requirements outlined in Minnesota Statutes 2024, section 3.8855 .
Minnesota Department of Employment and Economic Development (DEED)	Provides certifications for data center construction or refurbishment projects to qualify for the exemptions. Likely to maintain data necessary to understand qualifying projects. Data requests can be made and facilitated by the LBO.

Section 9: General Terms and Conditions

1. LBO means the Legislative Budget Office. In matters arising out of this proposal or out of any resulting contract, the authorized agent for the LBO is the Director of the LBO.
2. The LBO reserves the right to extend this agreement and enter into a contract with the selected vendor for other evaluations for up to five years by mutual agreement of all parties.
3. The LBO reserves the right to reject any consultant proposals received as a result of this Request for Proposal, or to negotiate separately with any consultant in any manner necessary.
4. The LBO reserves the right to require a consultant to make an oral presentation of its proposal to the LBO to permit a better understanding of the specifics of a consultant's proposal.
5. The LBO is not responsible for any cost incurred by the consultant in responding to this Request for Proposal.
6. Payment for any contract entered into as a result of the Request for Proposal will be made on a negotiated periodic basis after receipt of billings accompanied by the appropriate verification of work time and satisfactory completion of tasks to the billing date. In accordance with Minnesota Statutes 2024, section 3.225, subdivision 6b, no more than 90 percent of the amount due under the contract may be paid until the LBO's authorized agents have certified that the consultant has satisfactorily fulfilled the terms of the contract.
7. All contractors and subcontractors must conform to the labor laws of the State of Minnesota, and to all other laws, ordinances, and legal requirements affecting the work in this state. The consultant must conform with and agree to the provisions of Minnesota Statutes 2024, section 181.59, which prohibits discrimination in the hiring of labor because of race, creed, or color. That statute reads as follows:

181.59 DISCRIMINATION ON ACCOUNT OF RACE, CREED, OR COLOR PROHIBITED IN THE CONTRACT.

Every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

- (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or Contractor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- (2) That no contractor, material supplier, or Contractor, shall, in any manner, discriminate against, or intimidate, or present the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person

or persons from the performance of work under any contract on account of race, creed or color.

- (3) That a violation of this section is a misdemeanor; and
 - (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.
8. Under Minnesota Statutes 2024, section 176.182, the consultant must provide to the LBO acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes 2024, section 176.181, subdivision 2.
9. If the amount of this contract exceeds \$100,000 and the consultant has employed more than 40 full-time employees in this state or in the state in which the consultant has its primary place of business on a single working day in the 12 months immediately preceding the due date for the proposal, the consultant must comply with the affirmative action plan requirements of Minnesota Statutes 2024, section 363A.36, as follows:
- a. If the 40 full-time employees were employed in Minnesota, the consultant must, before submission of the proposal, either have a certificate of compliance issued by the Minnesota Commissioner of Human Rights or that commissioner must have received from the consultant an application for such a certificate. Prior to signing a contract resulting from a successful proposal, the consultant must have the certificate of compliance.
 - b. If the consultant did not have more than 40 full-time employees in Minnesota but did have that number in another state in which the consultant has its primary place of business, the consultant must, before signing a contract resulting from a successful proposal, either have a certificate of compliance issued by the Minnesota Commissioner of Human Rights or certify that the consultant complies with federal affirmative action requirements.

As required under Minnesota Rules, part 5000.3600, subpart 9: Minnesota Statutes 2024, section 363A.36, and Minnesota Rules, parts 5000.3400 to 5000.3600, are hereby incorporated into this Request for Proposal and will be incorporated into any resulting contract, by reference. A copy of that statute and those rules are available to the consultant from the LBO upon request.

10. As required by Minnesota Statutes 2024, section 270C.65, subdivision 3, a consultant must provide to the LBO either its federal taxpayer identification number or its Social Security number and its Minnesota tax identification number (if applicable). This information may be used in the enforcement of federal and state tax laws. Supplying these numbers could result in action to require consultants to file state tax returns and pay delinquent state tax liabilities. This contract will not be approved unless these numbers are provided. These numbers will be available to federal and state tax authorities and state personnel involved in approving the contract and the payment and audit of state obligations. These numbers will not be made available to any other person without the express written permission of the consultant.

- 11.** As required under Minnesota Statutes 2024, section 3.227, the consultant must certify its compliance with Minnesota Statutes chapter 3, including the non-discrimination provisions of Minnesota Statutes, section 3.226, in the execution and performance of any contract entered because of the Request for Proposal.
- 12.** All data and information supplied to the consultant by the LBO under any contract entered into as a result of the Request for Proposal, and all work products and interim and final reports prepared by the consultant in the performance of its obligations under any contract entered into as a result of the Request for Proposal, are the property of the LBO and must be remitted to the LBO upon completion or termination of this agreement. The consultant must not use, willingly allow the use of, or cause to have the materials used for any purpose other than the performance of the obligations under this agreement without the prior written consent of the LBO.
- 13.** Work must begin within the timeframe set in the signed contract between the LBO and the consultant. The signed agreement will terminate upon full performance by both parties of the contract agreement.
- 14.** This contract may be terminated by the LBO as permitted under Minnesota Statutes 2024, section 3.225, subdivision 6, in whole or in part, whenever the LBO determines that termination is in the interest of the LBO. The LBO will pay all reasonable costs associated with this agreement that the consultant has incurred up to the termination date of the agreement and all reasonable costs associated with termination of the agreement.

Section 10: Deliverables

1. Evaluation Report

The selected vendor will be expected to produce a written report to detail the findings of the evaluation, supporting material to the findings, a general background of the evaluation topic, the methodology of the evaluation process, and a conclusion of the findings with respect to whether the tax expenditure is meeting its objective.

2. Presentation of Results

The selected vendor will be expected to present evaluation findings to the LBO, the TERC, and possibly to the legislative committees with jurisdiction over tax policy.

Section 11: Appendices

1. [Legislative Budget Office 2024 Report](https://www.lbo.mn.gov/TERC/documents/(R)TERC%20Annual%20Report%202024.pdf)
[\[https://www.lbo.mn.gov/TERC/documents/\(R\)TERC Annual Report 2024.pdf\]](https://www.lbo.mn.gov/TERC/documents/(R)TERC%20Annual%20Report%202024.pdf)
2. [Full Data Center Equipment Tax Expenditure Initial Review](https://www.lbo.mn.gov/TERC/meetings/2024/DataCenterEquipment-4.72.pdf)
[\[https://www.lbo.mn.gov/TERC/meetings/2024/DataCenterEquipment-4.72.pdf\]](https://www.lbo.mn.gov/TERC/meetings/2024/DataCenterEquipment-4.72.pdf)
3. [Department of Revenue 2024 Tax Expenditure Budget](https://www.revenue.state.mn.us/sites/default/files/2024-11/2024-tax-expenditure-budget-published-version-cover.pdf)
[\[https://www.revenue.state.mn.us/sites/default/files/2024-11/2024-tax-expenditure-budget-published-version-cover.pdf\]](https://www.revenue.state.mn.us/sites/default/files/2024-11/2024-tax-expenditure-budget-published-version-cover.pdf)
4. [State of Minnesota Expectations for Accessible Documents](https://mn.gov/mnit/assets/Expectations%20for%20Accessible%20Documents_tcm38-628507.pdf)
[\[https://mn.gov/mnit/assets/Expectations%20for%20Accessible%20Documents_tcm38-628507.pdf\]](https://mn.gov/mnit/assets/Expectations%20for%20Accessible%20Documents_tcm38-628507.pdf)

ⁱ “What is a data center?” IBM website, accessed January 22, 2024, <https://www.ibm.com/topics/data-centers>.

ⁱⁱ Scott Wright, Alla Raykin, and Laurin E. McDonald, “Tricks and Traps of Data Center State Tax Incentives,” *Tax Notes State* 111 (January 2024):17-38, <https://www.taxnotes.com/special-reports/tax-technology/tricks-and-traps-data-center-state-tax-incentives/2023/12/28/7hmb7>. The article includes a table listing data center incentives by state with legal references.