



REQUEST FOR PROPOSAL (RFP)

FOR INFORMATION TECHNOLOGY CONSULTING

RFP No. 22-973-561-Y

**RFP ISSUE DATE: MAY 7, 2009
RESPONSES DUE: JUNE 25, 2009 2:00 P.M. E.T.**

REFER ALL INQUIRIES TO:

**MARK FOSS, PMP®, FCCN, FCCM
PURCHASING ANALYST
DIVISION OF STATE PURCHASING
DEPARTMENT OF MANAGEMENT SERVICES
4050 ESPLANADE WAY, SUITE 360
TALLAHASSEE, FL 32399**

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SECTION 1.0

INTRODUCTION

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1.1 Purpose - Term

The State of Florida, through the Department of Management Services, Division of State Purchasing is issuing this Request for Proposals (“RFP”) to obtain responses from potential Contractors to provide the Information Technology Consulting, and Staff Augmentation services described in this competitive solicitation in the following listed Project Areas:

Project Area	Description
1	Analysis and Design
2	Development & Integration,
3	Operational Support
4	Staff Augmentation

State Agencies and Other Eligible Users (OEU) (“Customers”) will use Prime Contractors awarded in Project Areas 1, 2 and 3 to contract for work on specific projects and issue Purchase Orders (POs) for these project areas. The POs will include Task Orders and specify service levels and desired outcomes or expected “deliverables”.

Customers will create a scope of work each time they desire to solicit services pursuant to this Contract. The scope of work will be incorporated into a Task Order which will be issued to the selected Contractor. The Task Order shall, in most cases, require a Request for Quote (RFQ) process. The requirements for Request for Quotes are outlined in the table below:

Quotation Requirements	
\$0 - \$2,000,000	Agency solicits at least 3 quotes among Contract Vendors of its choice
\$2,000,001 - \$5,000,000	Agency selects BEST RESPONSE to Statement of Work issued to at least 10 Contract vendors of its choice
\$5,000,001 - \$10,000,000	Agency selects BEST PROPOSAL submitted upon notification of ALL Contract Vendors within the appropriate Project Area(s)
Over \$10,000,000	RFP or ITN to Open Market not via this State Term Contract

Section 6.1 “Task Orders” of this solicitation addresses this process in detail.

Customers will use “Project Area 4” when staff augmentation services from awardees that possess the technical skills needed by the client organization on a contingent assignment basis. The requirements for a staff augmentation purchase order include the requisite educational qualifications and experience of the individual. A Request for Quote process is not required for staff augmentation procurement as all contracted rates and qualified positions will be published on the Contract resulting from this solicitation.

Respondents should carefully review all Sections of this RFP with particular attention to Section 2 (PUR 1001), Section 4 (PUR 1000) and Sections 5 (Special Contract Conditions). All Sections of this RFP must be accepted, and will be incorporated into the Contract without modification.

The State's MyFloridaMarketPlace e-Procurement system (the "MFMP System", "MFMP") will be used to conduct this competitive event.

Pursuant to 287.056 (1) F.S., the State Term Contract resulting from this solicitation will be mandatory for use by State Agencies and available for use by other eligible users (OEUs). OEUs are defined in Section 163.3164 F.S. and in Chapter 60A-1.005 F.A.C. (Eligible Users).

The contract shall be in effect for three (3) years from the date of execution, subject to annual appropriations by the State Legislature. The contract resulting from this solicitation is anticipated to begin on or about September 1, 2009.

Along with all other information contained in this solicitation, Respondents should consider the following issues in developing Responses:

1. Current contracts. Customers may retain existing purchase documents issued pursuant to previous procurement methods and staffing currently provided under existing purchase documents through their current term, including renewals and extensions as determined to be in the best interests of the State. New requirements and replacement of staff due to attrition shall be provided under this Contract or other appropriate alternatives.
2. Hardware and Software purchases. This contract is NOT intended to enable purchases of IT hardware or commercial off-the-shelf (COTS) software outside of a larger IT Consulting Services solution and shall not be used by users to solicit these commodities. In the event that a Customer has developed a scope of work that requires hardware or COTS software as part of a delivered solution, the Customer should, in accordance with chapter 287, F.S. or other controlling law(s), seek the most cost-effective legal method of procuring such products.

Notwithstanding this general prohibition, in the event that the Contractor provides hardware or COTS software to the Customer in the performance of a Task Order, terms and conditions addressing such items are included in this contract. These provisions should not be construed by any party as authority to purchase hardware or COTS software from this Contract, independent of a larger IT Consulting Services solution.

Prices and discounts submitted should be equal to or better than similarly situated governments (i.e. CA, NY, and TX) or other large enterprise clients. **Best pricing must be certified in Section 3.6.1.**

1.2 Contact Information

The Contact Person is the sole point of contact from the date of release of this RFP until the contract award is made:

Mark Foss, PMP®, FCCN, FCCM
Purchasing Analyst, Division of State Purchasing
4050 Esplanade Way
Tallahassee, Florida 32399

Telephone: (850) 488 1086
Fax: (850) 414 6122
Email: mark.foss@dms.myflorida.com

Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and shall be received no later than the time and date reflected on the calendar of events. The State will provide responses to the questions according to the calendar. All questions submitted through the Q&A Board shall be published and answered in a manner that all respondents will be able to view.

1.4 Lobbying

In accordance with Section 216.347 F.S., and as provided herein, the Manufacturer (Contractor) may not lobby this Department, the legislature, the executive branch, or any other State Agency relating to any aspect of this RFP during the procurement process. Violation of this restriction may be cause for disqualification from the procurement process.

1.5 Event Timeline

Event	Time (EDT)	Date
Release RFP		May 7, 2009
Non-Mandatory Pre-Bid Conference Room 166 Betty Easley Conference Center 4075 Esplanade Way, Tallahassee, FL	2:00 PM	May 20, 2009
Deadline to Submit Questions	2:00 PM	May 28, 2009
Post formal Response to Questions		June 4, 2009
RFP Responses Due	2:00 PM	June 25, 2009
Formal Posting of Award		July 9, 2009
Contract Start Date (On or about)		August 31, 2009

IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR BID AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR BID.

DO NOT RELY ON THE “MYFLORIDAMARKETPLACE” SOURCING TOOL’S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE EVENT TIMELINE (SECTION 1.5) OF THIS RFP.

SECTION 2.0

GENERAL INSTRUCTIONS TO RESPONDENTS, STATE OF FLORIDA FORM PUR 1001

CONTENTS:

- 2.1 DEFINITIONS**
- 2.2 GENERAL INSTRUCTIONS**
- 2.3 ELECTRONIC SUBMISSION OF RESPONSES**
- 2.4 TERMS AND CONDITIONS**
- 2.5 QUESTIONS**
- 2.6 CONFLICT OF INTEREST**
- 2.7 CONVICTED VENDORS**
- 2.8 DISCRIMINATORY VENDORS**
- 2.9 RESPONDENT'S REPRESENTATION AND AUTHORIZATION**
- 2.10 MANUFACTURER'S NAME AND APPROVED EQUIVALENTS**
- 2.11 PERFORMANCE QUALIFICATIONS**
- 2.12 PUBLIC OPENING**
- 2.13 ELECTRONIC POSTING OF NOTICE OF INTENDED AWARD**
- 2.14 FIRM RESPONSE**
- 2.15 CLARIFICATIONS/ REVISIONS**
- 2.16 MINOR IRREGULARITIES / RIGHT TO REJECT**
- 2.17 CONTRACT FORMATION**
- 2.18 CONTRACT OVERLAP**
- 2.19 PUBLIC RECORDS**
- 2.20 PROTESTS**
- 2.21 LIMITATION ON VENDOR CONTACT**

2.1 Definitions. The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
- (b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
- (c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
- (d) "Response" means the material submitted by the respondent in answering the solicitation.
- (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

2.2. General Instructions.

Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

2.3 Electronic Submission of Responses.

Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

2.4 Terms and Conditions.

All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect.

Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

2.5 Questions.

Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

2.6 Conflict of Interest.

This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

2.7 Convicted Vendors.

A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

2.8 Discriminatory Vendors.

An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;

- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

2.9 Respondent's Representation and Authorization.

In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
 - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.

- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

2.10 Manufacturer's Name and Approved Equivalents.

Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

2.11 Performance Qualifications.

The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or

terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

2.12 Public Opening.

Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

2.13 Electronic Posting of Notice of Intended Award.

Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

2.14 Firm Response.

The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

2.15 Clarifications/Revisions.

Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

2.16 Minor Irregularities/Right to Reject.

The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

2.17 Contract Formation.

The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

2.18 Contract Overlap.

Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

2.19 Public Records.

Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

2.20 Protests.

Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code requires that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

2.21 Limitation on Vendor Contact with Agency During Solicitation Period.

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

SECTION 3.0

SPECIAL INSTRUCTIONS TO RESPONDENTS

SPECIAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN THIS SECTION 3.0 MAY SUPERCEDE OR SUPPLEMENT GENERAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN SECTION 2.0.

- 3.1 DEFINITIONS**
- 3.2 ORDER OF PRECEDENCE**
- 3.3 WHO MAY RESPOND**
- 3.4 MYFLORIDAMARKETPLACE OVERVIEW**
- 3.5 ADDENDA TO THE RFP DOCUMENTS**
- 3.6 SUBMITTAL OF RESPONSE**
- 3.7 PRICE SPREADSHEETS**
- 3.8 TEAMING PARTNERS - SUBCONTRACTORS**
- 3.9 EVALUATION AND SELECTION PROCESS**
- 3.10 BASIS FOR AWARD**
- 3.11 ELECTRONIC POSTING OF NOTICE OF INTENT TO AWARD**
- 3.12 FIRM RESPONSE**
- 3.13 CANCELLATION OF RFP**
- 3.14 STATE OBJECTIVES**

3.1 Definitions

The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- a. **“Bill Rate”** The hourly rate that the Vendor Invoices the Customer. This is defined as the direct hourly rate along with appropriate load factors, and inclusive of profit or fee. Load factors include such items as overhead, fringe benefits, general and administrative (G&A), or any other elements of cost.
- b. **“Contractor”** means any person who contracts to sell contractual services to an agency.
- c. **“Department”** means the Department of Management Services.
- d. **“Deliverable”** is a discrete service provided to Customer, as detailed in a Task Order.
- e. **“Division of State Purchasing”** shall mean the organizational entity acting on behalf of the State of Florida and the Department of Management Services.
- f. **“Eligible User”** (per Section 60A-1.005, F.A.C.) shall mean a governmental agency, as defined in Section 163.3164, F.S., which has a physical presence within the State of Florida; and may include any independent, non-profit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools.
- g. **“DMS”** shall mean the State of Florida, Department of Management Services.
- h. **“Mark-up”** This includes the vendor’s overhead and general and administrative expenses. Other important components of the markup are the mandatory employer taxes (FICA, FUTA, State Unemployment, etc.) that must be remitted to the taxing authorities by the agencies. The markup will also include a factor for profit.
- i. **“Pay Rate”** The hourly salary paid to the contingent worker. Note: the state reserves the right to verify this through audit.
- j. **“Request for Proposal (RFP)”** shall mean this solicitation document.
- k. **“Response”** shall mean the formal written response to this document.
- l. **“Respondent”** shall mean the IT Consulting Services Provider or Provider of Staff Augmentation submitting a response to this RFP.

- m. **“Services”** means any deliverable or work performed under the Contract, which may include contractual services, commodities or software.
- n. **“State”** shall mean the State of Florida and Participating Entities, their employees, agents and designees, while acting within the scope of their agency employment or office.
- o. **“State Agency”** shall mean an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises full budgetary and statutory control.
- p. **“State Term Contract”** shall mean contracts procured by the State of Florida, Division of Purchasing.
- q. **“Task Order”** means the form or format used to make a purchase under the Contract (e.g., a formal written task order, electronic purchase order, procurement card, or other authorized means).

3.2 Order of Precedence

Potential Respondents for this solicitation are encouraged to carefully review all materials contained herein and prepare responses accordingly. In the event any conflict exists between the Special and General Instructions, those instructions specified in the Special Instructions shall prevail. In the event any conflict exists between the Special and General Conditions, those conditions specified in the Special Conditions shall prevail.

All responses are subject to the terms of the following sections of this RFP, which, in case of conflict, shall have the order of precedence listed:

- Any written amendments to the Contract
- This document, including Price Sheets
- Technical Specifications
- Special Instructions
- Special Conditions
- General Instruction to Respondents (PUR 1001)
- General Contract Conditions (PUR 1000)
- Any Purchase Order under the Contract
- Contractor’s Response

3.3 Who May Respond

Providers who are in good standing with the State of Florida, meet the technical specifications outlined in Section 6, and possess the financial capability, experience and personnel resources to provide services of the scope and breadth described in this RFP.

The Department reserves the right to request additional information pertaining to the Respondent’s experience, ability and qualifications to perform services described in this RFP, during the solicitation or after contract award.

A Respondent who fails to provide the requested information or submits false or erroneous information may be deemed non-responsive and shall not be awarded a contract.

If the Respondent's Proposal is found to contain false and/or erroneous information after contract award, the contract may be terminated.

3.4 MyFloridaMarketPlace (MFMP) Overview

Responses to this RFP must be submitted electronically into the MyFloridaMarketPlace "(MFMP) "Sourcing Tool.

MyFloridaMarketPlace Sourcing Tool Tips:

When working in the Sourcing tool, be aware of the twenty minute time-out function in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty minutes to ensure your entries since your last save are not lost.

Please note that clicking the SAVE button within the Sourcing tool only saves your RFP responses. The SAVE button does not transmit your RFP response to the State. In order to transmit your RFP response to the State, you must click the SUBMIT button on the SUMMARY page of the RFP response.

After clicking the SUBMIT button, it is the Respondent's responsibility to check any submitted response within the Sourcing tool to verify that the response is accurately and completely captured within the Sourcing tool. Respondents must do this while there is sufficient time remaining in the Solicitation period in the event you discover an error and need to resubmit a revised response.

To validate your response, you should do the following before the Solicitation period ends:

- a) Go to My Responses tab within Sourcing tool after you submitted your response.
- b) Click on the Response ID number of your last submitted response.
- c) Review response to make sure all responses are complete, accurate and as you intended to submit.
- d) Minimum areas to check are:
 - i. Text boxes – Is your entire answer viewable?
 - ii. Yes/No questions – Is the displayed answer correct?
 - iii. All uploaded document files / scanned documents –
Can you open attached document and clearly view entire content?
 - iv. Required Items - Are all items completed as required within the Sourcing tool?

It is strongly recommended not to wait until the last minute to upload and validate your response to this or any solicitation.

Email Notification: Respondents are reminded that the Sourcing tool's email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under

any obligation and does not guarantee that Respondents will receive email notifications concerning the posting, amendment or close of RFPs. Respondents are responsible for checking the MyFloridaMarketPlace Sourcing tool and / or the Vendor Bid System for information and updates concerning this RFP.

3.4.1 Optional MFMP Sourcing Tool Training

“On-Demand” is a web-based interactive training application available to all respondents to assist in learning how to respond to an event using the MyFloridaMarketPlace sourcing tool. The link is <http://training.myfloridamarketplace.com/vendor/toc.html> click on Responding to Sourcing Event.

IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR BID AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR BID.

DO NOT RELY ON THE “MYFLORIDAMARKETPLACE” SOURCING TOOL’S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE TIMELINE (SECTION 1.5) OF THIS RFP.

3.5 Addenda to the RFP Documents

The Department reserves the right to issue addenda to the RFP. Notice of any addenda will be posted within MyFloridaMarketPlace and the Vendor Bid System. Such notice, if required, will contain the appropriate details for identifying and/or reviewing the formal changes to the RFP. Each Respondent is responsible for monitoring the site for new or changing information concerning this RFP.

Respondents are reminded that the Sourcing Tool’s email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under any obligation to provide, and does not guarantee that Respondents will receive, email notifications concerning any posting, amendment or close of solicitations.

3.6 Submittal of Response

Responses shall be completed per instructions in this RFP document, and must be submitted electronically into the MyFloridaMarketPlace “(MFMP) “Sourcing Tool.

Respondents should download the solicitation, complete any required sections or forms, and upload their completed submission in the spaces provided within the MFMP Sourcing Tool.

Some of the forms (Attachments) in Section 7 **require** a signature. These should be downloaded, executed, and submitted where indicated.

It is especially important to have an authorized company official sign the Contact Form (Attachment 6). If your company is selected for award, the State will sign the Contract Form to establish the State Term Contract and return a fully executed copy to your firm. Please be advised, if your company is NOT selected for award the Contract document will be retained by the Department.

Each Respondent is responsible for ensuring that its response is submitted in the MyFloridaMarketPlace (MFMP) Sourcing Tool in the proper time per the "Timeline" in Section 2.13. The Respondent shall review this entire RFP; complete the Certifications Table in Section 3.6.1, and submit all forms required as part of the Respondent's bid proposal. Failure to provide completed documents, forms, or certification documentation may result in the disqualification of the Respondent.

CERTIFICATION OF ACCEPTANCE FOR THE TERMS AND CONDITIONS IS TO BE DONE WITHIN THE TABLE IN SECTION 3.6.1 BELOW.

3.6.1 Initial Determination of Responsiveness:

The Department shall evaluate eligible ("responsible and responsive") responses. Responses that do not meet the minimum requirements of this solicitation or fail to provide all required information, documents, or materials may be rejected as non-responsive. Respondents whose responses, past performance, or current status with the State do not reflect the capability, integrity or reliability to fully, and in good faith, perform the requirements of the Contract, may be rejected as non-responsible. The Department reserves the right to determine which responses meet the requirements of this solicitation, and which Respondents are responsive and responsible. **This paragraph is in addition to, and shall not be construed to limit or override, any right or remedy available to the Department in, Section 2.0, PUR 1001, or Section 4.0 PUR 1000.**

Failure to comply with each of the requirements listed below may result in the response being deemed non-responsive and therefore may not receive further consideration in this RFP process. This includes, but is not limited to the following:

Initial Responsiveness Checklist
1. Did the Respondent submit its reply <u>before</u> the indicated deadline?
2. Did the Respondent submit a COMPLETE pricing structure for EACH Project Area proposed on the pricing sheets (Attachment 1)?
3. Has the Respondent met the requirement for having no Conflicts of Interest? (See Section 2.6.)
4. Does the Respondent comply with the requirement for not being placed on the Convicted Vendor list for committing a public entity crime within the last 36 months? (See Section 2.7.)
5. Does the Respondent comply with the requirement for not being placed on the Discriminatory Vendor List per Section 287.134, F.S.? (See Section 2.8.)

6. Has the Respondent met the requirements for Insurance as outlined in Sections 4.35 and 5.5 of this RFP
7. Has the Respondent certified acceptance of all Terms and Conditions of this solicitation

Please certify that your Response conforms to each of the following requirements by responding with either a “Yes” or “No” in the blocks and submit the completed WORD Document in the MyFloridaMarketPlace Sourcing Tool.

Certifications

	YES	NO
1. Does the Respondent certify acceptance and compliance with <u>all</u> of the Terms and Conditions detailed in Section 2 (PUR 1001) of the RFP document?		
2. Does the Respondent certify acceptance and compliance with <u>all</u> of the Terms and Conditions detailed in Section 4 (PUR 1000) of the RFP document?		
3. Has the Respondent completed pricing worksheets as noted in Section 7.1 of the RFP Document?		
4. Respondent has submitted a Supplier Qualifier Report as noted in Section 7 of the RFP Document?		
5. Respondent is a registered vendor in MFMP, has proper filings with the Department of State, and is eligible to do business with the State of Florida?		
6. Respondent certifies understanding and agreement with all items in Section 1, 3, 5 and 6 of this solicitation.		
7. Respondent certifies that they will accept the State of Florida’s Purchasing Card.		
8. Has the Respondent submitted a Contract Form (Attachment 6) that has been executed by an authorized official of the firm?		

3.6.2 The Department will not consider a late response.

DO NOT RELY ON THE MFMP SOURCING TOOL’S TIME-REMAINING CLOCK. The official response deadline shall be as reflected in Section 1.5, Timeline, of this solicitation. The MFMP Sourcing Tool’s time-remaining clock is intended only to approximate the solicitation closing and may require periodic adjustments.

3.7 Pricing Spreadsheets

The Respondent must complete all of the required information in the price spreadsheets that are included in Section 7.1. The completed spreadsheets must be uploaded in the space provided in the MFMP Sourcing Tool.

Descriptions of “Job Families” are displayed in the left columns of the Pricing Spreadsheets. Within each Job Family are a number of Job Titles. The Job Title is often,

but not always, broken down into three (3) or four (4) “Scope Variants,” which are gradations of experience within that Job Title. Respondents must demonstrate their ability to supply personnel who meet all criteria listed in the Job Descriptions (see Attachment 14), and those Respondents who receive an award will be expected to provide personnel who meet such criteria throughout the term of the Contract.

If the Respondent is proposing services within Project Areas 1, 2 or 3, the Respondent must fill in pricing for EACH line item (job title / scope variant) within that Project Area. Failure to complete EACH line item shall result in immediate disqualification.

The pricing spreadsheets also include the requirement that the Respondent provide a price in all three columns: Pay Rate; Overhead and Profit of each Job Title and Scope Variants within the Project Area that the Respondent wishes to provide. The state will not award a contract for a Job Title with missing data in the “Scope Variants” or any of the three columns.

Expenses directly related to task orders (for Project Areas 1,2,3) such as travel and lodging, or materials and equipment specific to the task order should not be built into the hourly rate, but would be accounted for in the Respondent’s task order proposal submitted to the Customer.

Respondents seeking an award in Project Area 4 may provide prices for any combination of one or more Scope Variants. In other words, within Project Area 4, the Respondent is not required to provide a price for every Job Title and Scope Variant on the Price Sheet as award will be made by line item or job title.

3.7.1 Bid Ceiling Rates: The Respondent’s Hourly Rate shall not exceed the Bid Ceiling Rate listed next to each Job Number or Scope Variant. Proposals that contain prices higher than the Bid Ceiling Rates shall be considered non-responsive and shall not be evaluated by the Department. For example, Vendor X bids on Project Area 1 but the Rate offered by the Respondent for one Job Number Scope Variant is above the Bid Ceiling Rate. In this example, the Respondent shall be considered non-responsive for Project Area 1 and shall not be evaluated by the Department.

3.8 Sub-Contractors – Teaming Partners

Proposals may include the Respondent’s approach to utilization of sub-contractors or “Teaming Partners”, if applicable. Teaming Partners serve two purposes. During the solicitation process, the Respondent may utilize Teaming Partners to demonstrate the Respondent’s ability to provide a broader scope of services. After the contract is awarded, approved sub-contractors may perform services under the Contract. In such an event, the Customer will issue the Task Order to the Contractor (often referred to as the "Prime Contractor"), who shall remain responsible for the services delivered and for payments to the approved sub-contractors. Payment by the State for Services provided under the resulting contract will only be made directly to the Prime Contractor(s).

A Respondent may utilize “Teaming Partners” in its performance of the contract. Prime Contractors are limited to those Teaming Partners that have been originally submitted on the Teaming Partner – Subcontractor Information Form (Attachment 15) and approved by the Department.

The Respondent shall provide this information by completing the “Teaming Partner – Subcontractor Information Form (Attachment 15) for EACH subcontractor. Please note: the State Term Contract will be established between the State and the Respondent (Prime Contractor). As such, any disputes, issues, defaults, etc. will be resolved between the Customer, the State, and the Prime Contractor.

The Department must receive copies of each of these forms for every Teaming Partner the Respondent lists in its proposal. Failure to submit forms for each Teaming Partner may result in rejection of Respondent's bid as non-responsive.

3.9 Evaluation and Selection Process

A “1 through 5” scoring method is applied throughout the evaluation process for the evaluation of Financial, Technical and Price Sections as described below. A score of 1 is the least favorable and a score of 5 is the most favorable in all sections.

Financial Section (Supplier Qualifier Report (SQR))

- a) The Department will assign evaluation points on the prospective Respondent’s financial viability to perform the services outlined in this RFP.
- b) The Department requests submission of the prospective prime Contractor’s Supplier Qualifier Report (SQR) prepared by Dun & Bradstreet (D&B). The Supplier Qualifier Report is a standard report detailing financial and operational capability.
- c) The prospective Contractor should request the SQR report from D&B at:
<https://sor.dnb.com/sor/jsp/forms/SOF.jsp?SORTAG1=JQ37hS4r&SORTAG2=j58Gjk4x>
 - i. Enter the RFP number in the text field entitled “Enter your RFP Number” and select submit.
 - ii. Enter your company’s Dun & Bradstreet (D&B) Number. If you don’t know your company’s D&B number you may use the search feature to find it.
 - iii. Confirm Registration
 - iv. Enter payment method and information and complete registration. The cost of the preparation of the D&B report shall be the responsibility of the prospective Respondent.
 - v. Once the process is complete, a copy will be given to the Department and an identical report will be provided to the Respondent as verification.
- d) The SQR report shall be a part of the Respondents response. It is the duty of the Respondent to ensure the timely submission of a D&B report that accurately reflects the proposing entity. If the Department cannot determine on the face of the documents that the SQR report is that of the proposing entity, then the Department will award zero points.

- e) Respondents are advised to allow sufficient time before the Response due date for the D&B processing. Respondents should allow a minimum of 10 business days for D&B to process. If the Department does not receive a SQR from D&B, the Respondent shall be required to demonstrate that the SQR was requested by the Respondent after the posting date of the solicitation at MyFlorida.com and was requested for this solicitation.
- f) The Department will use the following rating scale when evaluating the financial viability of the prospective Respondent:

<u>Dun and Bradstreet Score</u>	<u>Proposal Score</u>
8 – 9 =	1
7 – 6 =	2
4 – 5 =	3
2 – 3 =	4
1 =	5

Failure to submit a SQR report will result in a ZERO Financial Score.

- g) The Financial Score is weighted and combined with Technical scores and Price Submissions as described below in Subsection d., Award of Project Areas 1, 2 and 3.

Technical Section:

- a) A “1 through 5” scoring method will be applied to the Technical Submission (Tabs 1-6 of Attachment 1). The Respondent’s submission for each tab will be listed and compared to every other Respondent in that Project Area. It will be scored by evaluators in accordance with the following scale:

1= Unsatisfactory: Not responsive or no data submitted.

2= Below Minimum Standards: Responsive to the question but below average as compared with the other Respondents.

3= Marginal: Minimum acceptable performance standards, and on average with the other Respondents

4= Satisfactory: Above average as compared to the other Respondents

5= Exceeds most responses of other Respondents.

If the final Technical Score is below 3.00, the proposal for that particular “Project Area” shall not be further scored for Price and Financial and will not be eligible for award.

Price Submissions

- a) A 1 through 5 scoring method is applied to the Price Submissions by placing all proposal price entries for each line item into a range from highest to lowest price and dividing the range into 20% increments to be scored as indicated on the table below.
- b) The scores for each line item will be averaged for the entire Project Area or Project Areas to determine the total Price Score:

Highest 20% increment of Prices	1
Next 20% increment of Prices	2
Next 20% increment of Prices	3
Next 20% increment of Prices	4
Lowest 20% increment of Prices	5

3.10 Basis for Award

Award will be made to all responsive and responsible Respondents who achieve a qualifying score at or above a 3.00 aggregate score combining Financial, Technical and Price Submissions (aggregate score is extended to two (2) decimal places) weighted at 35% for Financial, 50% for Technical, and 15% for Price.

Sample Calculation:

Financial Score:	Score of “2” times 0.35 weight	=	0.70
Technical Score:	Score of “4.89” times 0.50 weight	=	2.45
Price Score:	Score of “3” times 0.15 weight	=	0.45
Aggregate Score		=	3.60

Since the Sample Calculation (above) is greater than or equal to 3, an award would be made.

Awards in “Project Area 4” will be made on a line-item (multiple award for each Position Title achieving the qualifying score) basis to all responsive and responsible Respondent who achieve a qualifying score at or above a 3.00 aggregate score combining Financial, Technical and Price Submissions (aggregate score is extended to two (2) decimal places) weighted at 35% for Financial, 50% for Technical, and 15% for Price.

If the final Technical Score is below 3.00, the Proposal shall not be further scored for Price and Financial and will not be eligible for award. Calculations of scores will be made in the same manner as the Sample Calculation above.

3.11 Electronic Posting of Notice of Intent to Award

Responses shall be due on the date indicated on the Event Timeline (Section 1.5), and evaluated shortly thereafter. After evaluating the replies the Department shall

electronically post the Intent to Award on the date indicated on the Event Timeline (Section 1.5).

If an award is delayed, in lieu of posting the notice on the date indicated on the Timeline the Department shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Department a notice of protest within 72 hours after the electronic posting (see Section 2.19 of the General Instructions [PUR 1001]) for more information on protests. The Department shall not provide notices of award by telephone.

3.12 Firm Response

The State of Florida may make an award within One-Hundred and Eighty (180) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn.

If award is not made within One-Hundred and Eighty (180) days, the response shall remain firm until either the State awards the Contract or the State receives from the Respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the State's sole discretion, be accepted or rejected.

3.13 Cancellation of RFP

This RFP may be canceled at any time and any and all responses may be rejected in whole or in part when the Florida Department of Management Services, Division of State Purchasing determines such action to be in the best interest of the State of Florida.

3.14 State Objectives.

Within thirty (30) calendar days following award of the Contract, the successful Respondent shall submit plans addressing the State's objectives listed below, to the extent applicable to the items / services covered by this solicitation.

Diversity:

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The state is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the state is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the state's procurement process as both Contractors

and sub- contractors in this solicitation. Small, minority-, women-, and service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE contractors (agents or subcontractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other eligible user) level.

Certification of Drug-Free Workplace Program.

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Prime Contractors drug free. Section 287.087 F.S. provides that, where identical tie responses are received, preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the "Certification of Drug-Free Workplace" as provided in Sourcing Tool for this solicitation. The Prime Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation. Certification shall be submitted (in the Sourcing Tool) using the form in Section 7.5.

Products Available from the Blind or Other Handicapped (RESPECT).

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413F.S., in the same manner and under the same procedures set forth in Section 413.036(1) and (2), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>. The Respondent shall describe how it will address the use of RESPECT in offering the items of the solicitation.

Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section

946.515(2), and (4), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org/>. The Prime Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

SECTION 4.0

GENERAL CONTRACT CONDITIONS, STATE OF FLORIDA FORM PUR 1000

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4.1 Definitions.

The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) “Contract” means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) “Customer” means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The “Customer” may also be the “Buyer” as defined in the PUR 1001 if it meets the definition of both terms.

(c) “Product” means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) “Purchase order” means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

4.2 Purchase Orders.

In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor’s order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

4.3 Product Version.

Purchase orders shall be deemed to reference a manufacturer’s most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

4.4 Price Changes Applicable only to Term Contracts.

If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price

concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

4.5 Additional Quantities.

For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

4.6 Packaging.

Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

4.7 Inspection at Contractor's Site.

The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

4.8 Safety Standards.

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

4.9 Americans with Disabilities Act.

Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

4.10 Literature.

Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

4.11 Transportation and Delivery.

Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

4.12 Installation.

Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its

employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

4.13 Risk of Loss.

Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

4.14 Transaction Fee.

The State of Florida has instituted MyFloridaMarketPlace, a statewide e-Procurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE**

DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

4.15 Invoicing and Payment.

Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

4.16 Taxes.

The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

4.17 Governmental Restrictions.

If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

4.18 Lobbying and Integrity.

Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or

agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dls.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

4.19 Indemnification.

The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

4.20 Limitation of Liability.

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

4.21 Suspension of Work.

The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

4.22 Termination for Convenience.

The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if

any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

4.23 Termination for Cause.

The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

4.24 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole

discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

4.25 Changes.

The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

4.26 Renewal.

Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

4.27. Purchase Order Duration.

Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the

state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

4.28 Advertising.

Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

4.29 Assignment.

The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

4.30 Antitrust Assignment.

The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

4.31 Dispute Resolution.

Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

4.32 Employees, Subcontractors, and Agents.

All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

4.33 Security and Confidentiality.

The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to

its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

4.34 Contractor Employees, Subcontractors, and Other Agents.

The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

4.35 Insurance Requirements.

During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

4.36 Warranty of Authority.

Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

4.37 Warranty of Ability to Perform.

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

4.38 Notices.

All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

4.39 Leases and Installment Purchases.

Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase

agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

4.40 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org/>

4.41 Products Available from the Blind or Other Handicapped.

Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

4.42 Modification of Terms.

The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

4.43 Cooperative Purchasing.

Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer

and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

4.44 Waiver.

The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

4.45 Annual Appropriations.

The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

4.46 Execution in Counterparts.

The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

4.47 Severability.

If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

SECTION 5.0
SPECIAL CONDITIONS

CONTENTS

- 5.1 DEFINITIONS**
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- 5.10 CONTRACTOR ADDITIONS / REINSTATEMENTS**

5.1 Definitions:

In case of conflict with Section 4.0 General Contract Conditions (PUR 1000), the definitions in this section will take precedence. The Department rules and definitions contained in Chapter 60A-1, F.A.C. shall also apply to this Contract. The following additional terms are also defined:

- a. "Contract" means the legally enforceable agreement, if any, that results from this solicitation. The parties to the Contract will be the Department and the Contractor. The Contract shall be reduced to writing substantially in the REQUIRED FORM included in Section 7.6 of the solicitation documents.
- b. "Contractor" means a successful bidder, who, along with the Department, will enter into the Contract.
- c. "Customer" means the State agencies and other eligible users that will order services from the Contractor under the Contract. By ordering products under the Contract, the Customer agrees to its terms. Customers are not, however, parties to the Contract.
- d. "Deliverable" is a discrete service provided to Customer, as detailed in a Purchase Order.
- e. "Department" means the State of Florida, Department of Management Services.
- f. "Purchasing Analyst" means the Department employee who is primarily responsible for the management of the Contract. The Purchasing Analyst shall be identified in the Contract, and the Department may appoint a different Purchasing Analyst, which shall not constitute an amendment to the Contract.
- g. "Purchase Order" means the form or format used to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, or other authorized means).
- h. "Respondent" means the entity that submits the proposal materials in accordance with the instructions within this RFP. The "Respondent" may receive a Contract Award based upon the merits of the submittal. As such, the Respondent would then become a "Contractor" with oversight responsibility for any Teaming Partners (sub-contractors) submitted within the Respondent's proposal.
- i. "Services" means any deliverable or work performed under the Contract.
- j. "State" means the State of Florida and its agencies.

5.2 Purchase Orders:

A Customer shall order services by issuing a Purchase Order. Purchase Orders, used in conjunction with a Task Order (Section 6.1), shall establish the specific deliverables, costs, payment schedules, start/completion dates, etc. for specific assignments. Purchase Orders may vary from a simple staff augmentation request to a significant project with complex deliverables. It is the responsibility of the Customer to determine the appropriate scope of work for a Purchase Order.

In creating Purchase Orders, Customers are permitted to negotiate terms and conditions which supplement those contained in this Contract. Such additional terms shall not conflict with the terms and conditions established by this Contract (and any such conflicting terms shall be resolved in favor of terms most favorable to the Customer, as determined by the Department). Purchase Order-specific terms and conditions are only

applicable to that specific Purchase Order and shall not be construed as an amendment to this agreement.

In accepting a Purchase Order, the Contractor recognizes its responsibility for all tasks and deliverables contained therein, warrants that it has fully informed itself of all relevant factors affecting accomplishment of the tasks and deliverables and agrees to be fully accountable for the performance thereof. In addition, the Contractor assumes full responsibility for the acts of all subcontractors.

The Contractor shall provide all management, administrative, clerical, and supervisory functions required for the effective and efficient performance of all Purchase Orders it accepts, and shall have sole responsibility for the supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), worker's compensation, disability benefits and the like for its personnel. The Contractor is accountable to the Customer for the actions of its personnel. Each Purchase Order will name a Customer Contracting Officer; however, these Contracting Officers may be working members of teams and should not be expected to perform supervisory functions.

5.3 Electronic Invoicing:

Whenever possible, and notwithstanding any provision of the contract, the contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the State's e-Procurement system. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of the following mechanisms – cXML, EDI 810 or web-based invoice entry within the ASN.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider of MFMP, a State contractor, the right and license to use, reproduce, transmit, distribute and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress or other branding designation that identifies the products made available by the contractor under the contract. If the Contractor is not the manufacturer, it shall be the Contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this section, including securing any intellectual property rights of the manufacturer.

5.4 Liquidated Damages:

If the Contractor fails to ensure that a qualified employee reports for work as specified herein and as specified on the customer's purchase order (that has been accepted by the Contractor), in lieu of actual damages the customer may, at its option, elect to assess liquidated damages in the amount of \$250.00 per calendar day until the earlier of the date that:

- a. the Contractor provides a qualified employee;
- b. the Customer secures an employee elsewhere; or
- c. the Customer's need otherwise ceases.

Liquidated damages shall not be assessed if the Contractor provides the services as specified on the purchase order.

At the Customer's sole option, liquidated damages may be assessed in half-day (4 hour) increments of \$125.00.

5.5 Liability Insurance, Worker's Compensation:

Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. As specified in Section 4.35 (Insurance Requirements), during the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract.

The Contractor shall take out and maintain Commercial General Liability insurance including products and completed operations, for the entire length of the Contract. This insurance will provide coverage for all claims that may arise from the operations completed under this Contract, whether such operations are by the Contractor, the Contractor's Teaming Partners (sub-contractors), Contractor's agents, or other employees. Such insurance shall include a Hold Harmless Agreement in favor of the State of Florida, Department of Management Services and must include the State of Florida as an Additional Named Insured for the entire length of the Contract.

The Contractor shall provide (and maintain for the length of the Contract) a current certificate of insurance to the Customer and/or the Division of State Purchasing.

For this Contract, the limits of coverage under each policy maintained by the Contractor shall be:

Liability Insurance:

Minimum Limits:	\$1,000,000 Each Occurrence \$2,000,000 Aggregate
Errors and Omissions Insurance	
Minimum Limits	\$1,000,000 Each Occurrence \$2,000,000 Aggregate

Worker's Compensation: The Contractor shall take out and maintain during the life of this Contract minimal employer's liability Worker's Compensation Insurance. For all of its employees working in connection with this Contract the amount of coverage shall be:

Minimum Employer's Liability Limits:	\$100,000 each accident \$500,000 policy limit \$100,000 each employee
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All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

If, in the sole discretion of the Customer, liability insurance greater than that required herein to insure the project, scope of work, or other "Deliverables" is deemed necessary,

the additional required insurance amounts should be detailed in the Task Order and payment of any additional charges may be negotiated between the Customer and Contractor.

5.6 Performance Bond:

If deemed necessary, the Customer may require the Contractor to furnish (without additional cost) a performance bond, a negotiable irrevocable letter of credit or other form of security for the faithful performance of work under a particular Task Order.

Determination of the appropriateness and amount of any bond requirement, is the sole responsibility, and at the sole discretion of the Customer.

5.7 Ongoing Performance Measures:

The State intends to use performance-reporting tools in order to measure the performance of Contractors. Such measures assist the Department in ensuring that Contractors provide the best possible value to the State and end users.

The State reserves the right to modify the forms and introduce additional performance-reporting tools as they are developed, including online tools (e.g. tools within MyFloridaMarketPlace or on the Department's website).

5.7.1 Contract Reporting Requirements.

The Contractor shall report sales data to the Contract Manager on a quarterly basis using the STC Reporting Form in Section 7.12 of this RFP.

The following data must be reported to the Contract Manager on a quarterly contract basis and shall include:

- Contractor's Name and FEIN number
- Contact Information
- Reporting Period
- Total dollar value of purchases per quarter as noted on the form.
- Total dollar value of purchases per quarter indicating project group, agency, OEU, etc.
- Total dollar value of purchases received using the State's Purchasing Card (by Agency, OEU).
- Minority Business Spend shall be included in the same report on the tab marked CMBE Spend Report.

Failure to provide quarterly sales reports, including providing a report when there have been no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) may result in the contract supplier being found in default and may cause termination of the contract.

Submission of the Contract Sales Summaries shall be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary report by email to the Contract Manager.

5.7.2 Annual Sales Requirements:

As outlined in Section 5.5.1 above, Sales Reports must be submitted on a per quarter basis. These Sales Reports will be reviewed by the Division of State Purchasing.

Should no sales be recorded during the first two years of the contract period, the contractor's / vendor's contract will be terminated.

In addition, if no sales are reported during the third fiscal year (and any subsequent fiscal year) of the Contract, the contractor's / vendor's contract will be terminated. Any reinstatement will be done in accordance with Section 5.10 of this RFP.

5.7.3 Business Review Meetings.

In order to maintain the partnership between the Department and the Contractor, each quarter the Department may request a business review meeting. The business review meeting may involve, but not be limited to, the following:

- Review of Contractor performance
- Review of minimum required reports
- Review of continuous improvement plans

The Department encourages Contractors to help the State identify opportunities to lower costs. A continuous improvement effort, consisting of various ideas to enhance business efficiencies, may be discussed at the Business Review meetings or as identified.

5.8 Travel:

Expenses directly related to purchase orders such as travel and lodging, or materials and equipment specific to the purchase order shall not be built into the hourly Contract rate but must be accounted for separately.

Customer is not responsible for travel expenses unless he/she authorizes it at the time of issuing the purchase order.

If authorized, bills for any travel expenses shall be submitted in accordance with Section 112.061 F.S.

5.9 Rate Adjustments:

Rates may NOT be adjusted upward during the term of this Contract.

5.10 Contractor Additions - Reinstatements:

Once per year, at our sole discretion, on or about the Contract anniversary date, the State may conduct a solicitation as provided in Ch. 287 F.S. asking additional contractors to submit proposals that meet ALL of the requirements, Terms / Conditions of this RFP, and the resulting State Term Contract (STC).

New contractors (or those seeking reinstatement) will be evaluated in accordance with the original RFP. If it is determined by the Division of State Purchasing that ALL qualifying criteria have been met, the Contractor may be added to, or reinstated on, the STC.

SECTION 6.0

TECHNICAL SPECIFICATIONS

- 6.1 TASK ORDERS**
- 6.2 ORDERING FROM PROJECT AREAS / PROJECT AREAS PROPOSED**
- 6.3 LOCATION OF SERVICES**
- 6.4 CONFLICTS OF INTEREST**
- 6.5 PERSONNEL MATTERS**
- 6.6 SOFTWARE DOCUMENTATION REQUIREMENTS**
- 6.7 CONTRACTOR RESPONSIBILITIES**
- 6.8 OTHER CONTRACTORS – TEAMING PARTNERS**
- 6.9 TREATMENT OF CUSTOMER ASSETS**
- 6.10 CONTRACTOR WARRANTIES**
- 6.11 ONGOING PERFORMANCE MEASURES**
- 6.12 TASK ORDER TERMINATION**

6.1 Task Orders

6.1.1 A Customer shall order services by issuing a Task Order. Task Orders should establish the specific deliverables, costs, payment schedules, start/completion dates, etc. for specific projects. Task Orders may vary from a simple staffing request to a significant project with complex deliverables. It is the responsibility of the Customer to determine the appropriate scope of work for a Task Order.

In creating Task Orders, Customers are permitted to negotiate terms and conditions which supplement those contained in this Contract. Such additional terms shall not conflict with the terms and conditions established by this Contract (and any such conflicting terms shall be resolved in favor of terms most favorable to the Customer, as determined by the Department). Task Order-specific terms and conditions are only applicable to that specific Task Order and shall not be construed as an amendment to this agreement.

Three (3) types of Task Orders may be issued hereunder:

(i) Time & Materials (T&M) Task Orders, which may include standard staff augmentation services. A T&M Task Order should be used by a Customer to acquire services on the basis of (1) direct labor hours, at specified fixed hour rates not to exceed those in the Contract, and (2) materials at cost (permitted only when specifically detailed by the Customer in the Task Order). A typical staff augmentation Task Order is presumed **not** to include any additional materials costs, unless explicitly stated otherwise in the Task Order. These types of Task Orders place maximum risk on the Customer, therefore T&M Task Orders should be used only when it is not possible at the time of placing the order to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.

(ii) Fixed Price Project (FPP) Task Orders, which provide for a firm price that is not subject to any adjustment on the basis of the Contractor's cost experience in performing the Services. This type of Task Order provides maximum incentive on the Contractor to contain costs and perform effectively.

(iii) Cost-Savings Task Orders, in which the Contractor receives no direct fee. In this type of Task Order, the Contractor is reimbursed solely for an agreed-upon portion of the savings realized by its performance of the Services. This type of Task Order requires careful "benchmarking" by the parties, in order to properly calculate such savings.

6.1.2 Task Order Requirements. The following items are REQUIRED to be included in every Task Order issued by a Customer. All parties to a transaction are responsible for ensuring compliance with this section.

- Contracting Officer: Every Task Order must name a Customer Contracting Officer, who shall be the main Customer point of contact for all issues related to the Services performed under that Task Order. The Customer's Contracting Officer is the only person authorized to make or approve any changes in the requirements of a Task Order. In the event the Contractor(s) makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been without authority and no adjustment will be made in the Task Order price to cover any increase in costs occurred as a result thereof. The Customer's Contracting Officer is a single point of contact for the Contractor, and has the authority to obtain decisions on behalf of the Customer. The Contracting Officer will be responsible for the performance of the following functions, some of which may be delegated to other Customer staff:
 1. Provide a liaison between the Customer and the Contractor,
 2. Review, verify, and approve invoices from the Contractor,
 3. Resolve any contractual problems,
 4. Ensure the timely review by the Customer of all planning documents,
 5. Report on project progress to Customer management,
 6. Meet with the Contractor to convey information about schedule, timing and content of upcoming Deliverables, as well as raising problems and frustrations,
 7. Meet with the Contractor and inform Customer management on the Contractor's difficulties and frustrations,
 8. Facilitate resolution of problems,
 9. Functions as the source of all material sent to the Contractor,
 10. Receive all Deliverables from the Contractor,
 11. Archive all Deliverables received from the Contractor
- Completion Dates: For Fixed Price Projects, costs to the Customer for each Deliverable and the completion date must be agreed upon in the Task Order. The completion date shall be based on the Contractor's project plan and the Customer's needs. The Contractor shall complete each project within the agreed cost and by the estimated completion date, unless the completion date is properly modified.

6.1.3 Task Order Recommendations

Customers should consider the following items when creating a scope of work and its resulting Task Order. The items herein are not mandatory, but the Department strongly suggests that Customers (and Contractors) consider addressing these issues when relevant. This list includes, but is not limited to:

Americans with Disabilities Act (ADA) Civil Rights Compliance:

Vendors submitting proposals for this project need to provide complete compliance with all Equal Accessibility laws, regulations and standards under Sections 251 & 255 of the Telecommunications Act of 1996, Titles I, II, III & IV of the Americans with Disabilities Act (ADA) [42 USC 12101 et seq.], and Sections 504 and 508 of the federal

Rehabilitation Act amendments [29 USC 794 et seq.], and the Assistive Technology Act of 1998. These standards establish a minimum level of accessibility.

Vendors submitting proposals should review the above laws, regulations, and standards in detail to verify that the technologies they are proposing provide complete compliance. Vendors should provide written and signed certification to the Customer documenting compliance. Demonstration of these capabilities on the “working” system will be required by the Vendor before the Customer will accept the “system” and make related payments.

Technologies that are not accessible should be avoided unless there is significant and demonstrable need to use them. Since the courts have ruled against post-hoc accommodation (developing an alternative method of providing access to accommodate persons with disabilities), the agency needs to be careful approving technologies that cannot be certified by the vendor. If the manufacturer of the technology cannot demonstrate a compliant solution, they will be required to indemnify the customer against any litigation stemming from their lack of compliancy with the above laws, regulations and standards.

Inspection and Acceptance: If they desire, Customers may add specific information related to inspection and acceptance of services.

Liability Insurance: If, in the sole discretion of the Customer, liability insurance greater than that required by this Contract is necessary to insure the project, scope of work, or other Deliverables, the additional required insurance amounts should be detailed in the Task Order.

Performance Bond: The Customer, in its sole discretion, may require the Contractor to furnish without additional cost, a performance bond, a negotiable irrevocable letter of credit, or other form of security for the faithful performance of work under a particular Task Order. The appropriateness of this bond requirement, and the amount of such bond is the sole responsibility of the Customer.

Performance Management System: For Task Orders in Project Areas 1-3, the Department recommends that the Customer require Contractor to have a performance management system to track project cost, schedule, deviations, and status. Such systems should be similar to the earned value project management system that complies with the ANSI Standard on "Earned Value Management Systems Guidelines". Examples can be found at: <http://www.acq.osd.mil/pm/currentpolicy/currentpolicy.html>; and <http://www.whitehouse.gov/OMB/circulars/a11/cpgtoc.html>

Task Order Termination for Cause: In addition to those reasons given in the Contract, the Customer may outline any additional actions or non-actions that may result in a “for-cause” termination of the relevant Task Order.

Task Order Changes: The Customer is responsible for ensuring that Task Orders specify the process for change order requests.

6.1.4 RFQ Requirements

As noted in Section 1.1, the Customer shall issue Requests for Quote (RFQs) to multiple Contractors before issuing any Task Order under this Contract per the following thresholds for Project Areas 1, 2, and 3. For Staff Augmentation, Customers may make a discretionary vendor selection at any threshold except above \$10,000,000 in total cost. The specific format of the RFQ is left to the discretion of the Customer's Contracting Officer.

Quotation Requirements	
\$0 - \$2,000,000	Agency solicits at least 3 quotes among Contract Vendors of its choice
\$2,000,001 - \$5,000,000	Agency selects BEST RESPONSE to Statement of Work issued to at least 10 Contract vendors of its choice
\$5,000,001 - \$10,000,000	Agency selects BEST PROPOSAL submitted upon notification of ALL Contract Vendors within the appropriate Project Area(s)
Over \$10,000,000	RFP or ITN to Open Market not via this State Term Contract

RFQs performed within the scope of this Contract are not independent competitive solicitations and are not subject to the notice or challenge provisions of Section 120.57(3), F.S.

6.2 Ordering from Project Areas

In order to determine an appropriate Contractor for any given Task Order, Customers should evaluate the type of services required (for a scope of work) and identify the matching Project Area.

The Customer shall issue the Task Order ONLY to a Contractor who has received an award in that Project Area. If a scope of work crosses multiple Project Areas, the Customer may issue a Task Order to a Contractor within any relevant Project Area. In such situations, the Customer is encouraged to identify the Project Area that is most critical to the overall success of the Customer's project.

Project Area 1 – Analysis and Design

Project Area 1 encompasses IT Planning, Studies, and Assessment to assist organizations in both information technology capital planning and assessment, including but not limited to:

- Business case analysis (e.g. costs/benefit and risk analysis)
- Performance measurements
- Independent validation and verification of systems development
- Estimating return on investment and/or earned value

- Compliance with State interoperability standards as defined by the Agency for Enterprise Information Technology (AEIT).

Project Area 2 – Development and Integration

The services offered under this area include project management of systems development that organizations consider important. The services include but are not limited to the following:

- Management of systems integration
- System and software development
- Modernization of legacy systems to web enabled applications
- Software development, customization of commercial-off-the-shelf (COTS) software packages, and migration to modular applications
- Development and integration internet/intranet/web applications
- Development and integration of security, firewalls, and critical infrastructures
- Development, integration and implementation of the following:
 - o Networks (e.g. LAN/WAN/MAN/ VoIP)
 - o Data warehousing
 - o Electronic Commerce/Electronic Data interchange
 - o Groupware
 - o Next generation internet
 - o Client/Server computing
 - o Workflow and imaging

Project Area 3 – Operational and Support

The services offered under this area include a broad range of IT related to Operations and Support Services. Anticipated services include, but are not limited to the following:

- Management and support of Local Area Networks (LANs), Metropolitan Area Networks (MANs), Wide Area Networks (WANs), and VoIP Networks
- Computer systems administration, management and maintenance
- Data entry, data storage, data retrieval, and electronic records management
- Specialized workstation (i. e. CAD, CAD/CV, GIS) support
- Computer equipment maintenance (both on-going and on-call)
- Desktop support
- Production Support
- Database generation and database management
- Data and/or media management
- Document Imaging Services
- Disaster Recovery Services
- Orientation and training
- Information center/help desk

For simple staff augmentation efforts, the Customer may issue the Task Order to a Contractor in any Project Area.

In the space below, Respondents must identify the Project Area (or Areas) where they intend to supply services. Check “YES” where services are will be provided; “NO” where not provided

Project Area 1 – Analysis and Design	☐ Yes	☐ No
Project Area 2 – Development and Integration	☐ Yes	☐ No
Project Area 3 – Operational and Support	☐ Yes	☐ No
Project Area 3 – Staff Augmentation	☐ Yes	☐ No

6.3 Location of Services

A Task Order may direct that services be performed at the Customer’s location, or at a facility to be furnished by the Contractor. The Task Order may also indicate restrictions on the location of the Contractor's facility such as, “within 60 minutes of the Customer's facility, or within 30 miles of the Customer's facility”, etc.

The Contractor’s facilities must able to support necessary Task Order requirements, including all equipment, supplies, and services needed by personnel to complete the services for the Customer. Customer-furnished items will be identified in individual Task Orders, as appropriate.

The Contractor shall be responsible for transporting all Customer-furnished items between the Customer site and the Contractor's place of performance. Pickup and delivery of all materials shall be in accordance with the schedule defined for each specific Task Order.

6.4 Conflicts of Interest

Task Orders issued under this Contract (especially work under Project Area 1) may provide the Contractor with access to advance information about future procurements, which information is not generally available to other persons or firms. In addition, the work may involve the definition of requirements for, or the preparation of specifications for, various systems, equipment, hardware, and/or software.

In order to prevent any bias, unfair competitive advantage, conflict of interest, or the appearance of any type of impropriety, a Contractor who does any of the following under a Task Order issued under this Contract:

- Performs a feasibility study of the potential implementation of a subsequent contract or Task Order;
- Participates in the drafting of a solicitation or other subsequent Scope of Work, Task Order, or related document; or
- Develops a program for future implementation,

is not eligible to bid, respond, or otherwise contract for any other agreements, contracts, Task Orders, or other purchase documents dealing with that subject matter. The Contractor shall also be prohibited from serving as a subcontractor on such agreements, Task Orders, etc. In addition, Customers and Contractors are encouraged to review s. 287.057(18), F.S.

The term "Contractor," as used in this exclusion section includes any person, firm or corporation which has a majority or controlling interest in the Contractor or in any parent corporation thereof, and any person, firm or corporation in or as to which the Contractor (or any parent or subsidiary corporation thereof) has a majority or controlling interest. The term also includes the corporate officers of the Contractor, those of any corporation that has a majority or controlling interest in the Contractor (or any parent or subsidiary corporation thereof) has a majority or controlling interest.

Customers shall use their best efforts to notify Contractors of such potential exclusion situations. This notice should be included in a Task Order, scope of work, RFQ, or whenever the Customer recognizes the potential existence of a conflict.

6.5 Personnel Matters

6.5.1 Professional Qualification Requirements

The Contractor shall supply personnel meeting the educational qualifications specified in the Job Title or a specific Task Order. The Customer may consider, on a case-by-case basis, acceptance of personnel whose degree does not fall within the fields specified. Work experience may be substituted for education, at the Customer's discretion.

6.5.2 Professionalism

Contractor's personnel shall adhere to the same professional and ethical standards of conduct required of State personnel. Contractor personnel shall not:

1. Discuss with unauthorized persons any information obtained in the performance of work under any Task Order not considered a public record pursuant to Chapter 119, Florida Statutes;
2. Conduct any business not directly related to the Task Order on Customer premises;
3. Use computer systems and/or other Customer facilities for company or personal business other than work related to the Task Order; or
4. Recruit personnel on Customer premises; or
5. Otherwise act to disrupt official Customer business.

6.5.3 Training

The Contractor shall provide fully trained and experienced personnel (including replacement personnel) required for performance of any work under Task Orders awarded. This includes training necessary for keeping personnel abreast of industry advances and for maintaining proficiency on equipment, computer languages, and computer operating systems that are available on the commercial market. Training of

personnel shall be performed by the Contractor at its own expense except for the following:

1. When the Customer has given prior approval for training to meet special requirements that are peculiar to a particular Task Order.
2. Limited training of Contractor employee(s) may be authorized when the Customer changes the information technology hardware and/or software during performance of an on-going Task Order and it is determined to be in the best interest of the Customer.
3. Training for Contractor employees to attend seminars, symposia, or user group conferences when certified by the Contractor and the Customer's Contracting Officer that attendance is mandatory for the performance of Task Order requirements.
4. When training is authorized by the Customer under the conditions set forth above, the Customer will reimburse the Contractor for labor, tuition, and travel (if required) in accordance with the Task Order and s. 112.061, F.S.

6.5.4 Recruiting and Retention

For the purposes of this section only, the phrase "Task Order Personnel" is defined as any employee, subcontractor, consultant or other agent of an entity, whom the other entity becomes aware of due to the existence or performance of a particular Task Order.

Unless written authorization is received in advance, neither the Contractor nor the Customer shall attempt to recruit, hire, or otherwise contract with the Task Order Personnel of the other for the duration of the relevant Task Order and 6 months after such Task Order's termination. The term "attempt to recruit" excludes (i) any broad-based effort to attract applicants if not specifically designed to attract the other's Task Order Personnel and (ii) any unsolicited inquiries made or applications submitted by one party's Task Order Personnel not at the instigation of the other party. Notwithstanding this prohibition, the State reserves the right to recruit, hire, or otherwise contract directly with any Task Order Personnel who have performed Services under this Contract for at least 6 months.

6.5.5 Authority

Contractor personnel shall not hold themselves out to be representatives, in any capacity, of the Customer. In all communications with third parties, Contractor personnel shall identify themselves as such and specify the name of the Contractor.

In all communications with other Contractors in connection with a Task Order, the Contractor personnel shall state that he or she has no authority to in any way change the contract and that if the other Contractor believes a particular communication to be a direction to change the requirements of the Task Order, they should notify the Customer's Contracting Officer for that Task Order and not carry out the direction until a clarification has been issued by the Customer's Contracting Officer.

The Contractor shall insure that all of its personnel are informed of the substance of this section, and the substance of this section shall be included in all subcontracts at any tier.

6.6 Software Documentation Requirements

To the extent that any software is developed, modified, or otherwise procured under a Task Order, the Contractor is responsible for providing appropriate documentation, based on commercially-accepted software documentation standards. The Customer may address specific software documentation needs or standards in the appropriate Task Order.

6.7 Prime Contractor Responsibilities

In accepting a Task Order, the Contractor recognizes its responsibility for all tasks and Deliverables contained therein, warrants that it has fully informed itself of all relevant factors affecting accomplishment of the tasks and Deliverables and agrees to be fully accountable for the performance thereof. In addition, the Contractor assumes full responsibility for the acts of all subcontractors.

The Contractor shall provide all management, administrative, clerical, and supervisory functions required for the effective and efficient performance of all Task Orders it accepts, and shall have sole responsibility for the supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), worker's compensation, disability benefits and the like for its personnel. The Contractor is accountable to the Customer for the actions of its personnel. Each Task Order will name a Customer Contracting Officer; however, these Contracting Officers may be working members of teams and should not be expected to perform supervisory functions.

Contractor's management responsibilities include, but are not limited to, the following:

1. Ensure personnel understand the work to be performed on Task Orders to which they are assigned.
2. Ensure personnel know their management chain and adhere to Contractor policies and exhibit professional conduct to perform in the best interest of the Customer.
3. Ensure personnel adhere to applicable laws, regulations, and Contract conditions governing Contractor performance and relationships with the Customer.
4. Regularly assess personnel performance and provide feedback to improve overall task performance.
5. Ensure high quality results are achieved through task performance.

The Contractor shall not perform any inherently governmental actions under this Contract.

6.8 Other Contractors

6.8.1 Other Work

The Customer may undertake or award other contracts, Task Orders, or other arrangements for additional or related work to "Other Contractors". The Contractor shall reasonably cooperate with such other contractors and pertinent customer personnel. The Contractor shall not commit or permit any act that shall interfere with the performance of work by any other contractors or by customer personnel.

6.8.2 Transition of Work

The Contractor agrees to exercise its best efforts and cooperation to effect an orderly and efficient transition of any Task Order or other contract, project, or other agreement, if necessary. When appropriate, Task Order management personnel shall meet with a successor Contractor to coordinate Task Order transition. Discussions may include personnel transition to the successor Contractor or the transition of Task Order-specific items such as Customer or Contractor furnished supplies, materials, equipment, and services.

6.9 Treatment of Customer Assets

Title to all property furnished by the Customer under this Contract or any Task Order shall remain with the Customer. Furthermore, the Contractor shall surrender to the Customer all property of the Customer prior to settlement upon completion, termination, or cancellation of any Task Order. Any property of the Customer furnished to the Contractor shall, unless otherwise provided herein or approved by the Customer, be used only for the performance of the Services.

6.10 Contractor Warranties.

The Contractor agrees to the following representations and warranties:

- Repair of Damaged Data Warranty. The Contractor represents that, should any defect or deficiency in any Deliverable, or the remedy of such defect or deficiency, cause incorrect data to be introduced into any Customer's database or cause data to be lost, the Contractor shall be required to correct and reconstruct, within the timeframe established by the Customer's Contracting Officer, all production, test, acceptance and training files or databases affected which are used in the provision of services, at no additional cost to the Customer.
- Quality Assurance Warranty. The Contractor represents that it will at all times use a formal Software development process when the Services or Deliverables involve software modification or development.
- Limitation of Warranty for Customer-Furnished Software In lieu of any other warranty expressed or implied herein, the Customer warrants that any programming aids and software packages supplied for Contractor use as Customer-furnished property shall be suitable for their intended use on the system(s) for which designed. In the case of programming aids and software packages acquired by the Customer from a commercial source, such warranty is limited to that set forth in the contractual document covering the product(s). Should Customer-furnished programming aids or software packages not be suitable for their intended use on the system(s) for which designed, except where such property is furnished "as is," the Contractor shall notify the Customer's Contracting Officer and supply documentation regarding any defects and their effect on progress on the Task Order. The Customer's Contracting Officer will consider equitably adjusting the delivery performance dates or Task Order price, or both, and any other contractual provision affected by the Customer-furnished property in accordance with the procedures provided for in the clause of this contract entitled "Changes".

6.11 Background Checks and Screens:

The Contractor shall provide information necessary for a Customer to perform criminal background checks or drug screening on employees; or, upon a Customer's request, and for an additional negotiated fee, perform the check or screening.

The Contractor shall grant a Customer's request to interview potential new employees, at the Contractor's expense.

6.12 Ongoing Performance Measures.

The State intends to use performance-reporting tools in order to measure the performance of Contractors. These tools will include the report forms contained in Section 7.12. Such measures assist the Department in ensuring that Contractors provide the best possible value to the State and Customers. The State reserves the right to modify the forms and introduce additional performance-reporting tools as they are developed, including online tools (e.g. tools within MyFloridaMarketPlace or on the Department's website).

6.13 Task Order Termination

Upon the termination of any Task Order or a portion thereof, the Customer may require the Contractor to deliver to the Customer any Deliverables specifically produced or acquired for the performance of such part of any Task Order. Customer shall pay the Contractor for Deliverables received and accepted by the Customer, however, in no event shall the Customer pay to the Contractor an amount greater than the Contractor would have been entitled to if the Task Order were not terminated.

After receipt of a notice of termination, and except as otherwise directed by the Customer, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Contractor shall accept no further Task Orders for additional or other services related to the affected Task Order, and shall, as soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate any orders and/or subcontracts related to the terminated Task Order and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Customer to the extent required, which approval or ratification shall be final for the purpose of this section.

The parties shall also settle any transfers of property which may have been required to be furnished to Customer or which otherwise belongs to the Customer; and Contractor shall provide written certification to the Customer that the Contractor has surrendered to the Customer all said property.

The termination of a Task Order shall not affect the performance or quality of any other unrelated Task Order being performed by the Contractor for the same Customer or any other Customer.

SECTION 7.0

**THE FORMS, ATTACHMENTS, AND WORKSHEETS
ARE LOCATED IN, AND MUST BE DOWNLOADABLE FROM
THE MYFLORIDAMARKETPLACE SOURCING TOOL**

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***REQUIRED IF USING TEAM PARTNERS OR SUBCONTRACTORS.
ONE FORM MUST BE SUBMITTED FOR EACH PARTNER OR SUBCONTRACTOR.**