

State of Florida Department of State

REQUEST FOR PROPOSALS FOR

*SUMMARY REPORT: TAXPAYER RETURN ON INVESTMENT IN
FLORIDA LIBRARIES*

RFP # 914-190-04-09-5

RELEASED ON: May 6, 2009

****NOTICE: THE DEPARTMENT OF STATE HAS REVISED ITS REQUEST FOR PROPOSALS
FORMAT ****

**THIS COVER SHEET MUST BE SIGNED AND RETURNED WITH YOUR PROPOSAL TO
ACKNOWLEDGE AND AFFIRM AGREEMENT TO ALL OF THE STATEMENTS AND TERMS &
CONDITIONS CONTAINED IN THIS SOLICITATION. THE AUTHORIZED COMPANY
REPRESENTATIVE MANUALLY SIGNING THIS COVER SHEET WARRANTS THAT THEY ARE
DULY AUTHORIZED TO COMMIT ON BEHALF OF THEIR COMPANY TO CONTRACTUAL
OBLIGATIONS AND PRICING.**

AUTHORIZED SIGNATURE (MANUAL)

DATED

AUTHORIZED SIGNATURE (TYPED) TITLE

**THE DEPARTMENT IS NOT LIABLE FOR ANY AMENDMENT(S), CHANGE(S) OR ADDENDUM(S) NOT
RECEIVED BY VENDORS FOR FAILURE OF VENDOR TO REVIEW THE VENDOR BID SYSTEM (VBS).**

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1.0 STATEMENT OF PURPOSE

1.1 Background

In 2004, the State Library and Archives of Florida contracted with a research team to measure taxpayer return on investment in Florida's libraries. In September, 2004, the research team presented a report titled Taxpayer Return on Investment in Florida Public Libraries: Summary Report which detailed the results of a study. This study and publication were funded under the provisions of the Library Services and Technology Act, from the Institute of Museum and Library Services.

This landmark study was the first of its kind devoted to Florida's public libraries. The project placed Florida libraries into an evaluative framework that allowed their economic impact to be compared with that of other types of organizations. It used standard models of economic values, most notably the model developed by Regional Economic Models, Inc., and the Contingent Valuation Method. The results of this study show that Florida's public libraries return \$6.54 for every \$1.00 invested from all sources. They also show that when Florida's state and local governments invest in libraries, it enhances the quality of life in communities and helps build a stronger state economy.

The focus of this study is the array of services provided by Florida public libraries and the expenditures from local, state, and federal sources for those services.

Total operating expenditures from all sources for Florida public libraries reported to the State Library and Archives for FY 07-08, the most recent year for which expenditure data is available, was over \$570 million. During that same period, the agency administered \$23.3 million in state aid and over \$8 million in federal Library Services and Technology Act (LSTA) grant funds. Detailed information about these expenditures and statistical information about public library services provided in Florida are available from the State Library and Archives.

A copy of the report and other information about the study can be found at <http://dlis.dos.state.fl.us/bld/roi/>

1.2 Statement of Purpose

The purpose of this Request for Proposals is to solicit competitive proposals from qualified providers who are capable of updating the statewide study and report, Taxpayer Return on Investment in Florida Public Libraries: Summary Report. The report measures the taxpayer return on investments in public libraries in the State of Florida.

Government agencies need to measure the value of the services they provide with taxpayer support and demonstrate to the public that they are receiving excellent value. The methods of doing that assessment are constantly evolving and improving.

Proposers are encouraged to review the specifications

Work on the revised study must begin no later than October, 2009, and be completed and delivered by May 1, 2010.

It is the intent of the State Library and Archives to select a single proposer to supply the services necessary for successful completion of this request.

1.3 Diversity - Certified Vendor Participation

The Florida Department of State is committed to supporting 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. Firms doing business with the State of Florida are strongly encouraged to consider this initiative. For more information on the Mentor Protégé Program, contact the Office of Supplier Diversity at (850) 487-0915.

The Department 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 Department is central to this effort. It is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the Department'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.

Certified Vendors are encouraged to participate. A copy of your certification should be included with the proposal.

1.4 Scope of Work

Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good workmanlike manner the Work required by the Contract Documents.

1.5 Purchase/Contract Documentation

This purchase shall be accomplished through either issuance of a purchase order or a two party written agreement.

2.0 DEFINITIONS

The following terms used in this Request for Proposal (“RFP”), unless the context otherwise clearly requires a different construction and interpretation, have the following meanings:

- 2.1 **Breach of Contract**: The condition of the relationship between the Department and the Contractor which exists when the Contractor fails to perform under the terms and conditions of the Contract which may result from this RFP.
- 2.2 **Contractor**: The organization or individual providing services to the Department in accordance with the terms of the Contract which results from this RFP.
- 2.3 **Department**: The State of Florida, Department of State referred to in this RFP document as “the Department”.
- 2.4 **Desirable Conditions**: The use of the words “should” or “may” in this RFP indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a proposal.
- 2.5 **Mandatory Responsiveness Requirements**: Terms, conditions or requirements that must be met by the proposer to be responsive to this RFP. These responsiveness requirements are **mandatory**. Failure to meet these responsiveness requirements will cause rejection of a proposal. Any proposal rejected for failure to meet mandatory responsiveness requirements will not be further reviewed.
- 2.6 **Material Deviations**: The Department has established certain requirements with respect to proposals to be submitted by proposers. The use of *shall, must or will* (except to indicate simple futurity) in this RFP indicates a requirement or condition from which a material deviation may not be waived by the Department. A deviation is material if, in the Department’s sole discretion, the deficient response is not in substantial accord with this RFP’s requirements, provides an advantage to one proposer over other proposers, has a potentially significant effect on the quantity or quality of items proposal, or on the cost to the Department, or otherwise adversely impact the Department’s interest. Material deviations cannot be waived.
- 2.7 **Minor Irregularity**: A variation from the RFP terms and conditions which does not affect the price of the commodities or services, or give the proposer an advantage or benefit not enjoyed by the other proposers, and does not adversely impact the interests of the Department.
- 2.8 **P-Card**: Refers to the State of Florida’s purchasing card program, using the Visa platform.

- 2.9 **Proposer, Respondent, Vendor or Contractor:** A legally qualified corporation, partnership, sole proprietor, or other entity submitting a proposal to the Department pursuant to this Request for Proposals. For the purposes of this RFP “Proposer” is synonymous with the definition of “Respondent” provided in section 4.6 General Instructions to Respondents (PUR 1001 (11/04)).
- 2.10 **Proposal:** means the material submitted by the respondent in answering the RFP. For the purposes of this RFP “Proposal” is synonymous with the definition of “Response” provided in section 4.6 General Instructions to Bidders (PUR 1001 (10/06)).
- 2.11 **RFP:** An abbreviation formed from the initial letters of Request for Proposals.
- 2.12 **Winning or Successful Proposer:** The business or entity submitting the lowest responsive proposal, meeting all requirements of the Department’s RFP.
- 2.13 **Work:** The product(s) or contractual service(s) that the Department wishes to purchase as defined in Section 3.1 Specifications of this RFP.

3.0 TECHNICAL SPECIFICATIONS

Proposers are encouraged to carefully review the specifications for the study and report requirements indicated in this section prior to submitting a proposal.

3.1 Specifications

The prospective researcher must provide a proposal to update the study and report, Taxpayer Return on Investment in Florida Public Libraries: Summary Report that measures the taxpayer return on investments in public libraries in the State of Florida. The study must include use of the REMI economic input, output model. The report must additionally provide an easy to use template or methodology for individual libraries to calculate the return on the investment in their local community. The report must also include information and suggestions for communicating the study results to constituent groups.

The final reports and documents must be developed in close consultation with the State Library and Archives. Deliverables will be an electronic copy of all research results and reports as well as the professionally printed production of hard copies as applicable.

Proposals must include the following information outlined below:

Proposed Methodology. Provide a description of the overall approach and processes to be used in carrying out the project.

Project Team. The proposal must describe each person who will work with the project. The research team must include an economist. For each team member, provide the following information:

- Resumes of the individuals who will be directly responsible for and involved with the project including descriptions of each person's specific experience and abilities.
- Each person's level of participation and role that each will play in carrying out the project.

Budget. Provide a complete and accurate budget for the proposed project. The Division has allocated \$150,000 for this project. The budget must include:

- The total cost of the study
- A breakdown of the cost and time to be dedicated to the project by each person who will work with the project.
- Any other costs to be incurred in carrying out this project.

3.2 Contract Term

Schedule. Provide a time schedule identifying activities for the project. The work of the consultant shall begin no later than October, 2009, and be completed no later than May 30, 2010.

3.3 Performance Monitoring

The successful proposer will work closely with Division personnel to keep them apprised of the progress of the project. The project must be completed on schedule.

3.4 Scheduling

The project shall be completed and delivered on or before May 30, 2010.

3.5 Work Hours

3.5.1 All contact with Division personnel must be accomplished between the hours of 8:00 AM and 5:00 PM.

3.6 Contractor Requirements

3.2.1 Removal of Equipment
Not applicable.

3.2.2 Installation of New Equipment
Not applicable

3.7 Warranty

The successful proposer (contractor) shall warrant its work. All services shall be warranted for fitness of use or purpose according to the specifications of this RFP. The warranty period is 90 days from receipt of completed project. In the event the report Taxpayer Return on Investment in Florida Public Libraries: Summary Report fails to meet the requirements of the technical specifications section of this RFP during the warranty period, the successful proposer (contractor) shall perform any additional work necessary to correct deficiencies at no additional charge. The Department will inspect the work and if deficiencies are noted, the successful proposer (contractor) will be notified and will correct the deficiencies within 7 (seven) days after notification.

3.8 Damaged Goods

The vendor shall be responsible for filing, processing and collecting all damage claims. However, to assist the vendor in the expeditious handling of damage claims, the ordering office will:

- 3.8.1 Record any evidence of visible damage on all copies of the delivery carrier's Bill of Lading.
- 3.8.2 Report damage (visible or concealed) to the carrier and contract supplier, confirming such reports, in writing, within fifteen (15) days of delivery, requesting that the carrier inspect the damaged merchandise.
- 3.8.3 Retain the item in its shipping container, including inner packing material, until inspection is performed by the carrier and dispositions given by the contract supplier.
- 3.8.4 Provide the vendor with a copy of the carrier's Bill of Lading and Damage Inspection Report.

3.9 Trade Names

Any manufacturer's names, trade names, brand names or catalog numbers used in specifications contained in this Request for Proposal are for the purposes of describing and establishing general quality levels. Such references are not intended to be restrictive. Proposals will be considered for any brand that meets or exceeds the quality level of item(s) listed.

4.0 CONTACTS AND TIMELINE

4.1 Procurement Officer

4.1.1 Questions related to this procurement should be addressed to the Procurement Officer:

4.1.2 [Kathy Hutchins, Purchasing Manager](#)
[500 South Bronough Street, – Room 428](#)
[Tallahassee, Florida 32399-0255](#)
[Phone \(850\) 245-6592](#)
[Fax \(850\) 245-6597](#)
khutchins@dos.state.fl.us

4.1.3 **From the date this RFP is issued until a notice of recommended award, rejection of all proposals or other notice is made, no contact related to the RFP will be allowed between a proposer and any Department staff, with the exception of the Procurement Officer or Alternate Procurement Officer. Any unauthorized contact may disqualify the proposer from further consideration.**

The Procurement Officer designates [Wayne Kraften, Purchasing Director \(850\) 245-6593](#) as an alternate Procurement Officer when [Kathy Hutchins](#) is unavailable.

4.1.4 Proposer questions will only be accepted if submitted in writing; reference PUR 1001 Section 5 for additional information.

4.2 Solicitation Timeline

Listed below are the important actions and dates/times by which the actions must be taken or completed. If the Department finds it necessary to change any of these dates/times, it will be accomplished by addendum. All listed times are local time in Tallahassee, Florida.

Date	Time	<u>Action</u>
May 6, 2009	4:00 PM	Release of RFP
May 13, 2009	5:00 PM	Last day for written inquiries
May 19, 2009	5:00 PM	Anticipated date that written responses to written inquiries will be posted on the (VBS).
May 27, 2009	2:00 PM	Proposal Opening (Tallahassee local time)
June 8, 2009	5:00 PM	Anticipated date to post recommend award
July 1, 2009	5:00 PM	Anticipated date for issuance of purchase order or other documents.
May 30, 2010	5:00 PM	Last date for delivery of completed report.

PROCUREMENT RULES AND INFORMATION

4.3 Pre-Proposal

4.3.1 There will not be a pre-proposal conference.

4.4 Proposal Submission

Each proposal shall be prepared simply and economically, following the instructions contained herein.

MAILING INSTRUCTIONS

All proposals shall be submitted in a sealed envelope addressed to:

Florida Department of State
Purchasing Office
500 South Bronough Street, Room 428
Tallahassee, FL 32399-0250
Attn: *Kathy Hutchins*

The face of the envelope shall clearly state:

Name of Proposer: _____
Proposer's FEID Number: _____
Proposal Number: 914-190-04-09-5
Proposal Opening Time and Date: May 27, 2009, 2:00 PM Tallahassee
local time.

THE STATE IS NOT RESPONSIBLE FOR THE OPENING OF ANY ENVELOPES WHICH ARE NOT PROPERLY MARKED.

4.5 Proposal Opening

4.5.1 A public proposal opening will be conducted at the time and date specified in the "Solicitation Timeline" (Section 4.2) in the Purchasing Office, 500 South Bronough Street, Room 428, Tallahassee, Florida, 32399-0250. Proposals received after this time and date will be rejected. Proposals are to be submitted in a sealed envelope with the proposal number and opening date and time identified on the outside. If you intend to hand deliver your proposal at the time of the proposal opening, you must first go to room 428 and have your proposal date stamped prior to the proposal due time. Purchasing personnel will

deliver all proposals to Conference Room 428 at the time scheduled for the proposal opening.

- 4.5.2 After the public proposal opening, the name(s) of all proposers submitting proposals shall be made available to interested parties upon request to the Procurement Officer listed in Section 4.1.
- 4.5.3 It is recommended that all proposals be hand delivered or sent via certified mail or overnight courier to ensure timely delivery. The Gray Building is a secured facility; please allow sufficient time to gain access into the building; and advise the courier to verify delivery of the proposal to the Purchasing Office, Room 428.

4.6 General Instructions to Bidders (PUR 1001 (10/06))

The “State of Florida PUR 1001 (10/06) General Instructions to Bidders”, contains important instructions that apply to this solicitation and is located at the end of the solicitation after the attachments. If there is any conflict in language indicated in the attached “State of Florida PUR 1001 (10/06) General Instructions to Bidders”, and the Department’s ITB, the Department’s ITB will govern.

Notwithstanding Section 3 of the “State of Florida PUR 1001 (10/06) General Instructions to Bidders”, the Department of State does not accept Electronic Submission of Responses.

It is understood and agreed that Section 4.0 *PROCUREMENT RULES AND INFORMATION* of this RFP are additional to the General Instructions to Bidders (PUR 1001) and that all proposals must comply with both sections.

4.7 Proposal Preparation Costs

The Department is not liable for any costs incurred by a proposer in responding to this RFP, including those for oral presentations, if applicable.

4.8 Disposal of Proposals

All proposals become the property of the State of Florida and will be a matter of public record subject to the provisions of Chapter 119, Florida Statutes. The State of Florida shall have the right to use all ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

4.9 Rules for Proposal Withdrawal

A submitted proposal may be withdrawn by submitting a written request for its withdrawal to the Department, signed by the proposer within seventy-two (72) hours after the proposal due date indicated in the Calendar of Events.

4.10 Proposal Rejection

4.10.1 Right to Reject Proposal

The Department reserves the right to reject any or all proposals failing to meet mandatory responsiveness requirements, or containing material deviations and may require modifications before acceptance of any proposal. Additionally, the Department reserves the right to re-solicit request for proposals if in the best interest of the Department and to reject the proposal of any proposer not in a position to provide the required commodity and/or contractual service.

4.10.2 Mandatory Responsiveness Requirements

Mandatory responsiveness requirements are terms, conditions or requirements that must be met by the proposer to be responsive to this Request for Proposals. Failure to meet these mandatory requirements will cause rejection of a proposal.

4.10.3 Material Deviations

The Department has established certain requirements with respect to proposals to be submitted by proposers. The use of *shall*, *must*, or *will* (except to indicate simple futurity) in this Request for Proposal indicates a requirement or condition from which a material deviation may not be waived by the Department. A deviation is material if, in the Department's sole discretion, the deficient response is not in substantial accord with this Request for Proposal's requirements, provides an advantage to one proposer over other proposers, has a potentially significant effect on the quantity or quality of items proposed, or on the cost to the Department or otherwise adversely impact the Department's interest. Material deviations cannot be waived and shall be the basis for rejection of a proposal.

4.10.4 Minor Irregularities

A minor irregularity is a variation from the RFP terms and conditions which does not affect the price of the proposal or give the proposer an advantage or benefit not enjoyed by the other proposers or does not adversely impact the interests of the Department. **The Department reserves the right to waive any minor irregularities and correct computational errors in price extensions.**

4.11 Proposal Inquiries

- 4.11.1 To the extent that there are any varying conditions, this section supersedes “State of Florida PUR 1001 (11/04) General Instructions to Respondents” and “State of Florida PUR 1000 (08/04) General Contract Conditions”.
- 4.11.2 The proposer shall examine this RFP to determine if the Department’s requirements are clearly stated. If there are any requirements which restrict competition, the proposer may request, in writing, to the Department, that the specifications be changed. The proposer who requests changes to the Department’s specifications must identify and describe the proposer’s difficulty in meeting the Department’s specifications, must provide detailed justification for a change, and must specify recommended changes to the specifications. Requests for changes to this RFP must be received by the Department no later than the date shown for written inquiries in the “Solicitation Timeline.” A proposer’s failure to request changes by the date described above shall be considered to constitute proposer’s acceptance of Department’s specifications. The Department shall determine what changes to this RFP shall be acceptable to the Department. If required, the Department shall issue an addendum reflecting the acceptable changes to this RFP, which shall be posted on the Vendor Bid System to assure that all proposers shall be given the opportunity of offering proposals for the same specifications.

4.12 Addenda

Any addenda or answer(s) to written questions provided by the Purchasing Office to participating proposers shall include an Addenda Acknowledgement Form. An Addendum Acknowledgment Form will be provided with responses to vendor questions posted on the Vendor Bid System. The Addendum Acknowledgment Form shall be signed by an authorized company representative, dated, and returned with the proposal, as specified in Section 5, Proposal Submission Requirements.

4.13 Changes

No substitutions, variations or changes to contract terms, conditions or specifications will be permitted or acknowledged unless approved, in writing, by the Department of State Purchasing Office. Rule 60A-1.002(11), Florida Administrative Code (F.A.C.), specifically prohibits modification of a proposal after proposals are opened. Therefore, any changes or variations to the original contract terms, conditions or specifications must have the prior written approval of the Purchasing Office prior to the proposal opening date.

4.14 Price Discussions

After the RFP is released, any discussion by a proposer with any employee or authorized representative of the State involving price information, occurring prior to the proposal opening or notice of recommended award, or notice of rejection of all proposals, will result in rejection of said proposer's proposal.

4.15 Verbal Instructions

No negotiations, decisions, or actions shall be initiated or executed by the proposer as a result of any discussions with any State employee. Only those communications that are in writing from the Department's staff identified in Section 4.1 of this RFP shall be considered a duly authorized expression on behalf of the Department. Only written, signed communications from proposers will be recognized by the Department as duly authorized expressions on behalf of the Contractor.

4.16 No Prior Involvement and Conflicts of Interest

The Contractor shall not compensate in any manner, directly or indirectly, any officer, agent or employee of the Department for any act or service that he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Contractor. No officer, agent, or employee of the Department shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made, by anyone for, or on behalf of, the Department or the State of Florida.

The Contractor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under this Contract.

4.17 Corporate Registration

All entities defined under Chapters 607, 617 or 620, Florida Statutes, seeking to do business with the Department shall be on file and in good standing with the Florida Department of State. Under the provisions of Title 36, Section 606-623, Florida Statutes, in order to do business in the state of Florida, corporations (and other business designations) are required to be registered with the Department of State, Division of Corporations. To be eligible to receive a contract, corporate, or other applicable business registration must be accomplished within 6 business days of the initial posting indicating intent to award a contract to that vendor. Failure to be registered by this date will be cause for disqualification. Contact the Division of Corporations at (850) 245-6900.

4.18 Unauthorized Employment of Alien Workers

The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 247a (e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract.

4.19 2nd Tier Certified Minority Participation Reporting

If applicable, as the successful proposer makes payments to 2nd tier certified minority sub-contractor(s), the successful proposer shall provide the Department with a written report documenting 2nd tier certified minority participation. The report shall be titled “2nd tier certified minority participation” and shall identify the name of the participating 2nd tier certified minority contractor(s), the portion of the work being performed by the 2nd tier certified minority contractor(s) and the dollar value of the portion of the work. All reports shall be submitted to the Department no later than thirty (30) days after a payment is made.

4.20 Licenses, Permits, Other Charges

The successful proposer shall pay for any and all licenses, permits, other charges and taxes (except as otherwise provided in this Request for Proposals) and shall comply with all laws, ordinances or other requirements applicable to the work specified during the term of this contract.

4.21 Posting of Recommended Award

- 4.21.1 The recommended award is anticipated to be posted on the Vendor Bid System for review by interested parties and at the Department of State’s Purchasing Office located in Tallahassee, Florida, on or about the date shown in the “Solicitation Timeline” (Section 4.2) and will remain posted for a period of seventy-two (72) hours (three business days).
- 4.21.2 Any proposer who desires to protest the recommended award must file the following documents with the [Agency Clerk in the Department’s Office of General Counsel, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250](#), and provide copies to the Contact Person listed in Section 4.1 of this RFP.
- 4.21.3 The Department shall not be obligated to pay for information obtained from or through any proposer prior to entering into a contract with the successful proposer.

4.22 Proposer's Response

4.22.1 A Proposer's response to this Request for Proposal shall be considered as the proposer's formal offer. The purchase order, incorporating this proposal, the proposer's response thereto, and any addenda properly issued, shall be the sole agreement of the parties. If there is a conflict in language, the Department's RFP will govern.

4.22.2 The proposed contract/purchase order document that will be utilized for the resulting agreement will include an adequate description of the service, the contract period, the method of payment and contain at a minimum, where applicable, the following:

A provision that bills for fees or other compensation for services be submitted in detail sufficient for a proper preaudit and postaudit thereof.

A provision that bills for any travel expenses shall be submitted in accordance with s. 112.061.

A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and s. 119.07(1).

A provision dividing the contract into deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

A provision specifying the criteria and final date by which such criteria must be met for completion of the contract.

A provision specifying that the contract may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer, specifying the renewal price for the contractual service as set forth in the proposal. Renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds (if applicable).

5.0 PROPOSAL FORMAT AND CONTENTS

5.1 Proposal Submission Requirements

By submitting a proposal or proposals under this RFP, each Proposer warrants its agreement to the prices submitted. Any qualifications, counter-offers, deviations, or challenges shall render the proposal non-responsive.

5.2 Number of Proposals/Proposal Submission

5.2.1 This section contains instructions that describe the required format for the submitted proposal. The proposer shall submit **one complete signed** original and 4 complete copies of proposals as requested, which shall include all required documents, in a separately sealed envelope, clearly marked “Proposal – RFP 914-190-04-09-5” on the exterior of the envelope.

5.2.2 There is no intent to limit the content of the response. Additional information deemed appropriate by the proposer may be included. However, cluttering the proposal with irrelevant material makes the review more difficult. The following paragraphs contain instructions that describe the required format for proposal responses.

5.3 Mandatory Responsiveness Requirements

5.3.1 The following terms, conditions, or requirements must be met by the proposer to be responsive to this RFP. **These responsiveness requirements are mandatory.** Failure to meet these responsiveness requirements will cause rejection of a proposal. Each proposer shall submit the following completed information in a sealed envelope. The face of the envelope shall clearly state the proposal number and title and also reflect the proposal opening date and time. (If a courier service is used, the proposal document must be in a sealed marked envelope inside the shipping envelope).

5.3.2 It is **mandatory** that the proposer supply one original and four (4) copies of proposals. Proposal must be submitted in a sealed envelope and clearly marked “RFP 914-190-04-09-5” on the exterior of the envelope.

It is **mandatory** that the proposer list their proposal prices on the “Request for Price Information” sheet(s) furnished. The “Request for Price Information” cost extension sheet(s) must be completed and signed by a representative who is authorized to contractually bind the proposer.

5.3.3 All NO PROPOSALS shall be indicated on vendor’s letterhead inclusive of the reason for the NO PROPOSAL.

- 5.3.4 Proposers are to provide NET PROPOSAL PRICES. All cash discounts allowed for prompt payment of bills should be incorporated into net proposal prices.
- 5.3.5 Completion of the Drug Free Workplace/Identical Tie Proposal Form, “**ATTACHMENT 2 – IDENTICAL TIE PROPOSALS**”, is recommended but not mandatory.
- 5.3.6 It is **mandatory** that the proposer provide the names, addresses, telephone numbers, e-mail addresses, and other information requested on the reference sheet (Attachment 3) provided for three (3) references for which the proposer has provided the same or similar products as those specified in this proposal within the last three (3) years. The Department reserves the right to obtain and utilize references not provided by the proposer(s).
- 5.3.7 It is **mandatory** that the proposer prints out the Addenda Acknowledgment Form(s) (posted on the VBS) and submits signed and dated Addenda (if any are issued) with the proposal.
- 5.3.8 Proposers are requested to submit a copy of their Certified Minority Certificate, if applicable.
- 5.3.9 Note: Fancy binding of proposals, colored displays in proposals, and promotional material are not desired.

5.4 Vendor Contract Administration Contact

The proposer must provide to the Department, the name, title, phone number, fax number, and both the physical and e-mail address of the person assigned to coordinate the performance of this contract with the Department. This same information must be provided for an alternate contact person who shall serve as a back up in the absence of the primary contact. The vendor shall notify the Department should there be any change of representative(s). Please complete and include the enclosed “**ATTACHMENT 1 – VENDOR REPRESENTATIVE AND ALTERNATE**” with your proposal response.

5.5 Identical Tie Proposals

In the event of identical proposals from this RFP, preference shall be given to businesses with drug-free workplace programs (Rule 60A-1.011, F.A.C.). “**ATTACHMENT 2 – IDENTICAL TIE PROPOSALS**” describes such programs and how proposers may obtain this advantage. Whenever two or more proposals which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a

proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie proposals will be followed if none of the tied vendors have a drug-free workplace program. If your company currently has a drug-free workplace program that meets these criteria, please sign the form (*ATTACHMENT 2 – IDENTICAL TIE PROPOSALS*) and submit it with your proposal response.

5.6 Late Proposals

Proposals received after the date and time set for submission shall not be considered.

5.7 Proposal Pricing

- 5.7.1 Firm price responses shall include all packaging, handling, shipping and delivery charges (F.O.B. Destination, Freight Prepaid) and inside delivery (when applicable). (Reference PUR 1001 section 13 for additional information)
- 5.7.2 For ease of computation, the proposal responses should be structured as indicated in “*ATTACHMENT 4 – REQUEST FOR PRICE INFORMATION*”.

6.0 EVALUATION AND AWARD

6.1 Price Determination

It is the intent of the Department to award the Contract to the responsive and responsible proposer(s) receiving the highest evaluation (most evaluation points) in accordance with the “Evaluation Criteria” established in Section 6.6 below.

6.2 Evaluation Process

In the event that the highest evaluated proposal is found non-responsive, the Department will terminate consideration of that proposal and proceed to consider the next highest evaluated proposal. This process will continue until the Department is able to award a contract or until all eligible proposals have been eliminated.

6.3 Incomplete “*REQUEST FOR PRICE INFORMATION*” Sheet(s)

Any “*REQUEST FOR PRICE INFORMATION*” sheet(s) that is/are incomplete or in which there are significant inconsistencies or inaccuracies may be rejected by the Department. No deviations, qualifications, or counter offers will be accepted. All calculations will be reviewed and verified. The Department may correct mathematical errors; however, in the event of any miscalculation, unit prices shall prevail. The Department reserves the right to reject any and all proposals.

6.4 Reference Checks

If any of the proposer’s references indicate poor contract performance, the Department may, at its discretion, reject the proposer’s proposal even if it determines that an otherwise responsive proposal in full compliance with the RFP specifications and conditions was submitted.

6.5 Final Determination

In the event that the Department awards identical points to two or more responsive proposals with drug-free workplace programs, the final determination of the award shall be decided through the toss of a coin in a public meeting.

6.6 Evaluation Criteria

6.6.1 Award will be made to the responsive and responsible proposer receiving the most evaluation points.

6.6.2 A maximum of 125 points may be awarded to a proposal by each evaluator.

6.6.3 Proposals shall be reviewed by members of an evaluation committee composed of employees of the Department of State. Proposals will first be reviewed to confirm that all mandatory requirements are met. Proposals which do not conform to mandatory requirements or which contain material deviations from the specifications will be rejected and not be reviewed further.

The Department of State desires to award the contract to the proposer who demonstrates the ability to provide the highest quality of service. The evaluation committee’s recommendations and findings will be tabulated and ranked by the purchasing office.

The committee will evaluate the proposals as follows:

Selection Criteria. A maximum of 125 points may be awarded to a proposal by each evaluator. The points awarded in each category by each reviewer will be combined and averaged. Based on those average scores, the bidder receiving the highest average points will be selected. The categories for evaluation and a general statement of the criteria for each one are outlined below:

Proposed Methodology

Maximum points: 40

The proposal will be evaluated to determine the appropriateness of the approach and methodology.

Project Team

Maximum points: 25

The quality of the project team will be evaluated, including relevant experience and knowledge. The availability of resources and time will also be used to evaluate the bidder’s capability to perform.

Budget

Maximum points: 25

The budget will be scored with twenty-five points given to proposal with lowest total price. Price points will be prorated. 25 points will be awarded to the vendor offering the lowest Price. All others will receive a prorated share of the points. The following formula will be used to calculate price points to be awarded:

$$\frac{\text{Lowest price bid by any vendor} \times 25 \text{ (points)}}{\text{Price bid by vendor}} = \text{Points awarded}$$

Proposals exceeding the amount available for this project will not be considered.

Samples

Maximum points: 20

Two (2) samples of similar projects should be provided. Proposers will be evaluated on past performance in projects of a similar nature, as determined by samples provided by the proposer. Samples will be evaluated for clarity, content, relevance and scope. References for the sample projects will be contacted during the evaluation process. Reference responses will affect the number of points awarded.

ScheduleMaximum points: 15

The schedule will be evaluated on the proposer's demonstrated ability to begin and complete the project with the time frame of the project.

Failure to Meet Mandatory Requirements. Any proposal which fails to meet the mandatory requirements stated in this RFP shall be rejected. The Division reserves the right to reject any and all proposals.

- 6.6.4 Pricing submitted shall be all inclusive to provide the services required in the specifications and offered in your proposal. The contract to produce the updated study and report Taxpayer Return on Investment in Florida Public Libraries: Summary Report will be awarded to a single successful proposer.
- 6.6.5 Proposer(s) must submit proposals for all services or their proposal will be disqualified.

7.0 SPECIAL CONDITIONS

7.1 Contract

It is understood and agreed that section **7.0 SPECIAL CONDITIONS** are in addition to the General Contract Conditions (PUR 1000) listed in section 7.3 and that both sections shall apply to any contract awarded.

7.2 Order of Precedence

All responses are subject to the terms and conditions of the following sections of this Request for Proposals, which, unless otherwise specified, shall have the order of precedence listed:

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

7.3 General Contract Conditions (PUR 1000 (10/06))

The “State of Florida PUR 1000 (10/06) General Contract Conditions”, contains terms and condition that apply to this solicitation and is located at the end of the solicitation after the attachments. If there is any conflict in language indicated in the attached “State of Florida PUR 1000 (10/06) General Contract Conditions”, and the Department’s ITB, the Department’s ITB will govern.

7.4 Contract Extensions

Extension of a contract for contractual services shall be in writing for period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the contractor (s. 287.057(13)). Extension shall be executed prior to the expiration of current contract and is effective on the last date signed.

7.5 Notice to Contractor

The employment of unauthorized aliens by any contractor is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this contract.

7.6 Damages upon Termination

The Department of State's exercise of the right to terminate shall not release the contractor from its obligation to pay damages incurred by the State due to any breach by contractor, including re-procurement costs, prior or subsequent to the notice of termination.

7.7 Invoices and Payments

7.7.1 The Contractor agrees to submit invoices for compensation for delivery of products in detail sufficient for a proper pre-audit and post-audit thereof. Invoices will be paid upon receipt, inspection and acceptance of product(s).

7.7.2 Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against the Department arising out of this Agreement or otherwise relating to the Work, except those previously made in writing and identified by Contractor as unsettled at the time of the final payment. Neither the acceptance of the Work nor payment by the Department shall be deemed to be a waiver of the Department's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the Department at the time of acceptance or final inspection.

7.8 Contract Management

Department of State Contract Manager

Upon award of a contract, the Division will specify a Contract Manager who will receive for the Department all services and invoices called for in this contract and will represent the Department in the technical phases of work. However, in no event shall any understanding, agreement, contract modification, or other matter in deviation from the terms, conditions, and specifications of this contract between the vendor and a person other than the Contract Administrator be effective or binding upon the Department unless approved in writing by the Contract Administrator. The Department shall notify the vendor in the event there is any change of Contract Manager.

7.9 Contractor Supervision

Contractor shall provide supervision (when applicable) and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. All communications given to the Contractor's supervisor shall be as binding as if given to the Contractor. The Department shall have the right to direct Contractor to remove and replace its supervisor, with or without cause.

7.10 Contractor's Expenses

The successful proposer shall pay for all licenses, permits, and inspection fees or similar charges required for this Contract, and shall comply with all laws, ordinances, regulations, and any other requirements applicable to the work to be performed under this Contract.

7.11 Governing Law and Venue

This Contract is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Florida. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

7.12 Records

7.10.1 Records Audit

7.12.1.1 The successful proposer agrees to maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Department under this Contract, and agrees to provide a financial and compliance audit to the Department or to the Office of the Auditor General and to ensure that all related party transactions are disclosed to the auditor.

7.12.1.2 The successful proposer agrees to include all record-keeping requirements in all subcontracts and assignments related to this Contract.

7.12.2 Records Retention

The successful proposer agrees to retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertaining to this Contract for a period of five (5) years. The successful proposer shall maintain complete and accurate record-keeping and documentation as required by the Department and the terms of this Contract. Copies of all records and documents shall be made available for the Department upon request. All invoices and documentation must be clear and legible for audit purposes. All documents must be retained by the successful proposer for the duration of this Contract. Any records not available at the time of an audit will be deemed unavailable for audit purposes. Violations will be noted and forwarded to the Department's Inspector General for review. All documents must be retained by the Vendor at the Vendor's primary place of business for a period of five (5) years following termination of the Contract, or, if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings. The Vendor shall cooperate with the Department

to facilitate the duplication and transfer of any said records or documents during the required retention period. The Vendor shall advise the Department of the location of all records pertaining to this Contract and shall notify the Department by certified mail within ten (10) days if/when the records are moved to a new location.

7.13 Procurement of Materials with Recycled Content

It is expressly understood and agreed that any products or materials which are the subject of, or are required to carry out, this Contract shall be procured in accordance with the provisions of Section 403.7065, Florida Statutes and Section 287.045, Florida Statutes.

7.14 Accessible Electronic Information Technology

Vendors submitting responses to this solicitation must provide electronic and information technology resources in complete compliance with the accessibility standards provided in Rule 60-8.002, F.A.C. These standards establish a minimum level of accessibility.

7.15 Non-Discrimination

No person, on the grounds of race, creed, color, national origin, age, gender, marital status or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in, the performance of this Contract.

7.16 Americans with Disabilities Act

Any vendor or contractor submitting a proposal to the Department for providing commodities or contractual services may not exclude any person(s) from participating in; deny any person(s) the proceeds or benefits of; not otherwise subject any person(s) or subcontractors to any form of discrimination based on grounds of race, creed, color, national origin, age, sex, or disability. Any vendor or contractor which is providing commodities or contractual services, or possible subcontractor, must comply with the pertinent portion of the Americans with Disabilities Act of 1990, Public Law 101-336.

Any person requiring a special accommodation at the reply opening because of a disability should call the Purchasing Office at (850) 245-6592 at least five (5) workdays prior to the reply opening date. If you are hearing or speech impaired, please contact the Purchasing Office using the Florida Relay Service which can be reached at 1 (800) 955-8771 (TDD).

7.17 Insurance Requirements

The Contractor agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this Contract. The Contractor accepts full responsibility for identifying and determining the type(s) and extent of insurance necessary

to provide reasonable financial protection for the Contractor and the Department under this Contract. Upon issuance of the Purchase Order, the vendor may be required to furnish the Department written verification of such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Department reserves the right to require additional insurance where appropriate.

- 7.17.1 If the Contractor is a state agency or subdivision as defined in Section 768.28, Florida Statutes, the Contractor shall furnish the Department, upon request, written verification of liability protection in accordance with Section 768.28, Florida Statutes. Nothing herein shall be construed to extend any party's liability beyond that provided in Section 768.28, Florida Statutes.
- 7.17.2 In the event that independent contractors, sole proprietors or partnerships provide construction licensed services related to construction industry classifications, reference DFS Rule 4L-6.021 Florida Administrative Code, in the performance of this Contract, 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, which, as a minimum, shall be: workers' compensation and employer's liability insurance in accordance with Chapter 440 of the Florida Statutes, with minimum employers' liability limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policy shall cover all employees engaged in any Contract work.
- 7.17.3 Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees. In the construction industry, only corporate officers of a corporation or any group of affiliated corporations may elect to be exempt from workers' compensation coverage requirements. Such exemptions are limited to maximum of three officers per corporation and each exemption holder must own at least 10% of the corporation. Independent contractors, sole proprietors and partners in the construction industry cannot elect to be exempt and must maintain workers' compensation insurance.

7.18 Copyrights, Right to Data, Patents and Royalties

Where activities supported by this Contract produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Department has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Department to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, will vest in the State of Florida, Department of State for the exclusive use and benefit of the state. Pursuant to Section 286.021, Florida Statutes, no person, firm or corporation, including parties to this Contract, shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Department of State.

- 7.18.1 The Department shall have unlimited rights to use, disclose or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Contractor under this Contract. All computer programs and other documentation produced as part of the Contract shall become the exclusive property of the State of Florida, Department of State, with the exception of data processing software developed by the Department pursuant to Section 119.083, Florida Statutes, and may not be copied or removed by any employee of the Contractor without express written permission of the Department.
- 7.18.2 Further, if such a claim is made or is pending, the Contractor may, at its option and expense, procure for the Department the right to continue use of, replace, or modify the article to render it noninfringing. (If none of the alternatives are reasonably available, the Department agrees to return the article to the Contractor upon its request and receive reimbursement, fees and costs, if any, as may be determined by a court of competent jurisdiction.) If the Contractor uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the Contract prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work to be performed hereunder.

7.19 Independent Vendor Status

The Contractor shall be considered an independent Vendor in the performance of its duties and responsibilities under this Contract. The Department shall neither have nor exercise any control or direction over the methods by which the Contractor shall perform its work and functions other than as provided herein. Nothing in this Contract is intended to, nor shall be deemed to constitute, a partnership or a joint venture between the parties.

7.20 Liquidated Damages

- 7.20.1 The Department and Contractor recognize that, since time is of the essence for this Agreement, the Department will suffer financial loss if the “Work” identified as Taxpayer Return on Investment in Florida Public Libraries: Summary Report is not completed within the time specified. Should Contractor fail to complete/deliver the Work on or before **May 30, 2010**, the Department shall be entitled to assess, as liquidated damages, but not as a penalty, **\$500** for each calendar day thereafter until the Work is completed or delivery is achieved. The Work shall be deemed completed/delivered when the Department’s representative accepts delivery or certifies in writing that the Work is complete in accordance with the contract documents, so that the Work or specified part can be utilized for the purposes for which it is intended. All Work shall be completed prior to final payment.
- 7.20.2 Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the Department’s actual damages at the time of contracting if Contractor fails to complete/deliver the Work in a timely manner.

7.20.3 When any period of time is referenced to by days herein, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

7.21 Performance Bond

No Performance Bond is required.

7.22 Payment Bond

No Payment Bond is required

7.23 Interest Penalties

Payment shall be made in accordance with Section 215.422, Florida Statutes, which states the contractor's rights and the State agency's responsibilities concerning penalties and time limits for payment of invoices.

7.24 Vendor Ombudsman

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the state Comptroller's Hotline, 1-800-848-3792.

7.25 Travel Expenses

No travel expenses shall be allowed under the resulting contract; unless specifically set forth herein.

7.26 Addition/Deletion of Items

The Department of State reserves the right to add or delete any commodity or service from this proposal or resulting contract when deemed to be in the State's best interest.

7.27 Breach of Contract

In the case of breach of contract on the part of the vendor, the Department reserves the right to cancel the contract and charge the vendor for the procurement of satisfactory product or service on the open market, or other remedies available to the Department pursuant to the provisions of

the Uniform Commercial Code, Chapter 672, F.S., relating to the breach of express or implied warranties, including, but not limited to, warranties of fitness for a particular purpose or use.

If immediate necessity, and lack of time to procure product elsewhere, compel the use of defective product furnished by a vendor, it shall be accepted without approval, and one-half of the contract price thereon shall be deducted as liquidated damages for breach of contract.

7.28 GSA Schedule 70 Purchase Option

In the event that commodities or contractual services specified in this solicitation are available from General Service Administration (GSA) Schedule 70 contracts, and the 287.057 solicitation processes as authorized by Florida Statutes, do not result in pricing equal to or lower than GSA contract pricing, the Department, at its option, may reject those offers and proceed to purchase from the GSA Schedule 70 contractor.

7.29 Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion

The Contractor certifies that it is not ineligible for participation in federal or state assistance programs under Executive Order 12549, "Debarment and Suspension." The Contractor further agrees to include this certification in all contracts between itself and any subcontractors in connection with the services performed under this Contract. Contractor also certifies that contractor will notify the Department in writing immediately if contractor is not in compliance with Executive Order 12549 during the term of this contract. Contractor agrees to refund the Department for any payments made to the contractor while ineligible.

All Proposers shall submit an executed certification to the Department of State as part of their response: (ATTACHMENT 7).

7.30 Latent Defects

Should latent defects be discovered after any delivery has been accepted, the Department reserves the right to reject any portion of the remaining delivery and require reimbursement of funds previously paid, or replacement of defective products, or cancel the contract and charge the vendor for reprourement of satisfactory product on the open market, or other remedies available to the Department pursuant to the provision of the Uniform Commercial Code, Chapter 672, F.S., relating to breach of express or implied warranties including, but not limited to warranties of fitness for a particular purpose or use. The parties agree that the Department must ordinarily either use those products supplied, which contain latent defects, or else encounter some delay.

Delivery of product(s) with latent defects shall be a breach of contract on the part of the vendor, and if the products are used, shall result in an amount equal to 50% of the contract amount for the products being pre-estimate of the probable loss from extra time and labor cost. Due to the nature of the contract, the public detriment resulting from using products with latent

defect, i.e., extra time, labor cost, or adverse impact on the user or the Department, is not easily ascertainable and is difficult to pre-estimate at time of award of the contract. The parties agree that the Department may elect not to reject the products due to latent defects and may elect to use the products and that the liquidated damage amount established in the contract regarding latent defects has been determined in an effort to reasonably fix a fair compensation for actual damages for extra time and labor cost, or adverse impact, in the event of default resulting from latent defects.

Both parties agree to the amount stipulated for liquidated damages, for extra time and labor cost, or adverse impact, specified herein, and further agrees that no additional damages for extra time and labor cost, or adverse impact may be sought, if the Department uses the product(s). This sum shall be the complete and exclusive remedy and shall be paid and received as liquidated damages and not as a penalty. If the products are rejected and not used, the parties agree that the Department may utilize its remedies set forth in the preceding clause.

<i>SUBMITTAL CHECKLIST</i>			
Items to be returned with proposal shall include, but are not limited to, the following items.			
		Submitted	Initials
1	PROPOSER MUST RETURN SIGNED COVER SHEET – (PAGE 1 OF THE RFP) (mandatory)		
2	PROPOSER MUST PROVIDE ONE ORIGINAL PROPOSAL(S) AND FOUR COMPLETE COPIES. (mandatory per Section 5.3.2)		
3	“ATTACHMENT 1 – VENDOR REPRESENTATIVE AND ALTERNATE” sheet.		
	“ATTACHMENT 2 – IDENTICAL TIE PROPOSALS” form (if applicable)		
	“ATTACHMENT 3 – REFERENCES” (mandatory)		
4	“ATTACHMENT 4 – REQUEST FOR PRICE INFORMATION” sheet. (mandatory)		
5	Addenda Acknowledgement form(s) if any were issued. (mandatory)		
6	Copy of proposer’s Certified Minority Certificate (if applicable)		
7	SUBMITTAL CHECKLIST (Optional)		
8	<i>DEBARMENT FORM REQUIRED</i>		

ATTACHMENT 1 - VENDOR REPRESENTATIVE AND ALTERNATE

Representative Name: _____

Title: _____

Address: _____

Address: _____

Address: _____

Telephone #: _____ Fax #: _____

E-mail Address: _____

Alternate Representative Name: _____

Title: _____

Address: _____

Address: _____

Address: _____

Telephone #: _____ Fax #: _____

E-mail Address: _____

ORDERING INFORMATION

ALL PURCHASE ORDERS SHOULD BE DIRECTED TO:

VENDOR _____

ADDRESS: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

Delivery of services will be performed in accordance with section 3.4 Scheduling.

FAXED ORDERS WILL _____ WILL NOT _____ BE ACCEPTED.

ATTACHMENT 2 - IDENTICAL TIE PROPOSALS

Preference shall be given to businesses with drug-free workplace programs. Pursuant to Section 287.087, Florida Statutes, whenever two or more proposals which are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie proposals will be followed if none of the tied vendors has a drug free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under proposal a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 894, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on any employee who is so convicted or require the satisfactory participation in a drug abuse assistance or rehabilitation program as such is available in the employee's community.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of applicable laws, rules and regulations.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR'S SIGNATURE

ATTACHMENT 3 - REFERENCES

Reference: # 1

Company Name _____
Contact Person _____
Company Address _____
City, State, & Zip _____
Phone Number _____
E-mail Address _____
Product _____
Phone Number _____
E-mail Address _____
Term of contract performed for this reference - From: _____ To: _____
Product(s) or service(s) provide for this contract: _____

Reference: # 2

Company Name _____
Contact Person _____
Company Address _____
City, State, & Zip _____
Phone Number _____
E-mail Address _____
Product _____
Phone Number _____
E-mail Address _____
Term of contract performed for this reference - From: _____ To: _____
Product(s) or service(s) provide for this contract: _____

Reference: # 3

Company Name _____
Contact Person _____
Company Address _____
City, State, & Zip _____
Phone Number _____
E-mail Address _____
Product _____
Phone Number _____
E-mail Address _____
Term of contract performed for this reference - From: _____ To: _____
Product(s) or service(s) provide for this contract: _____

ATTACHMENT 4 – REQUEST FOR PRICE INFORMATIONFlorida Department of State RFP# *(INSERT RFP NUMBER)*

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Company FEID # _____

Firm price responses shall include all packaging, handling, shipping and delivery charges (F.O.B. Destination, Freight Prepaid) and inside delivery (when applicable). (Reference PUR 1001 section 13 for additional information)

Award will be made to the responsive and responsible proposer receiving the most evaluation points. A maximum of 125 points may be awarded to a proposal by each evaluator.

Proposals shall be reviewed by members of an evaluation committee composed of employees of the Department of State. Proposals will first be reviewed to confirm that all mandatory requirements are met. Proposals which do not conform to mandatory requirements or which contain material deviations from the specifications will be rejected and not be reviewed further.

The Department of State desires to award the contract to the proposer who demonstrates the ability to provide the highest quality of service. The evaluation committee's recommendations and findings will be tabulated and ranked by the purchasing office.

The committee will evaluate the proposals as follows:

Selection Criteria. A maximum of 125 points may be awarded to a proposal by each evaluator. The points awarded in each category by each reviewer will be combined and averaged. Based on those average scores, the bidder receiving the highest average points will be selected. The categories for evaluation and a general statement of the criteria for each one are outlined below:

Proposed MethodologyMaximum points: 40

The proposal will be evaluated to determine the appropriateness of the approach and methodology.

Project TeamMaximum points: 25

The quality of the project team will be evaluated, including relevant experience and knowledge. The availability of resources and time will also be used to evaluate the bidder's capability to perform.

BudgetMaximum points: 25

The budget will be scored with twenty-five points given to proposal with lowest total price. Price points will be prorated. 25 points will be awarded to the vendor offering the lowest Price. All others will receive a prorated share of the points. The following formula will be used to calculate price points to be awarded.

Lowest price bid by any vendor X 25 (points) = Points awarded
Price bid by vendor

Proposals exceeding the amount available for this project will not be considered.

Samples Maximum points: 20

Two (2) samples of similar projects should be provided. Proposers will be evaluated on past performance in projects of a similar nature, as determined by samples provided by the proposer. Samples will be evaluated for clarity, content, relevance and scope. References for the sample projects will be contacted during the evaluation process. Reference responses will affect the number of points awarded.

Schedule Maximum points: 15

The schedule will be evaluated on the proposer’s demonstrated ability to begin and complete the project with the time frame of the project.

Failure to Meet Mandatory Requirements. Any proposal which fails to meet the mandatory requirements stated in this RFP shall be rejected. The Division reserves the right to reject any and all proposals.

Pricing submitted shall be all inclusive to provide the services required in the specifications and offered in your proposal. The contract to produce the updated study and report Taxpayer Return on Investment in Florida Public Libraries: Summary Report will be awarded to a single successful proposer.

Proposer(s) must submit proposals for all services or their proposal will be disqualified.

All inclusive price to update the study and report Taxpayer Return on Investment in Florida Public Libraries: Summary Report: \$ _____
Total Price

ATTACHMENT 7 – CERTIFICATION DEBARMENT/SUSPENSION

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION
LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS PROVIDED BELOW)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name and Title of Authorized Representative:

Signature: _____ Date: _____

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone Number).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

State of Florida***PUR 1001 GENERAL INSTRUCTIONS TO BIDDERS (10/06)*****Contents**

1. Definitions
2. General Instructions
3. Electronic Submission of Responses
4. Terms and Conditions
5. Questions
6. Conflict of Interest
7. Convicted Vendors
8. Discriminatory Vendors
9. Respondent's Representation and Authorization
10. Manufacturer's Name and Approved Equivalents
11. Performance Qualifications
12. Public Opening
13. Electronic Posting of Notice of Intended Award
14. Firm Response
15. Clarifications/Revisions
16. Minor Irregularities/Right to Reject
17. Contract Formation
18. Contract Overlap
19. Public Records
20. Protests
21. Limitation on Vendor Contact with Agency During Solicitation Period

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

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.

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.

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.

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.

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.

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.

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.

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.

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.

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).

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.

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.

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.

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.

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.

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.

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.

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."

22. **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.

State of Florida*PUR 1000 GENERAL CONTRACT CONDITIONS (10/06)***Contents**

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6. Packaging.
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8. Safety Standards.
9. Americans with Disabilities Act.
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11. Transportation and Delivery.
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- 42. Modification of Terms.
- 43. Cooperative Purchasing.
- 44. Waiver.
- 45. Annual Appropriations.
- 46. Execution in Counterparts.
- 47. Severability.

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).

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.

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. 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

14. Transaction Fee. The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement 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 procurement 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.**

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.

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.

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.

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://dhis.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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.pridefl.com>.

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>.

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.

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.

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.

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

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.

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.