

INVITATION TO NEGOTIATE
FOR
FOOD SERVICE
ITN NO.: DMS-18/19-020

**Refer ALL Inquiries to
Procurement Officer:**
Caitlen Boles
Departmental Purchasing
Department of Management Services
4050 Esplanade Way, Suite 335.2Y
Tallahassee, FL 32399-0950
Telephone: (850) 410-1423
DMS.Purchasing@dms.myflorida.com

Failure to file a protest within the time prescribed in section 120.57(3) of the Florida Statutes, or failure to file a bond or other security within the time allowed for filing a bond, shall constitute a waiver of proceedings under Chapter 120 of the Florida Statutes.

Department of Management Services
Office of the General Counsel
4050 Esplanade Way, Suite 160
Tallahassee, FL 32399-0950

NOTICE PURSUANT TO SECTION 287.057(23), FLORIDA STATUTES

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.

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INCLUDED AS SEPARATE DOCUMENTS:

ATTACHMENT A – Statement of Work
ATTACHMENT B – Contract

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SECTION 1 – INTRODUCTORY MATERIALS

1.01 Definitions

- A. **Blind Services**: The State of Florida, Division of Blind Services.
- B. **Cafeteria Services**: Full-service hot and cold breakfast and lunch.
- C. **CD-ROM**: A standard compact disc.
- D. **Contract**: The legally enforceable agreement, if any that results from this solicitation. The parties to the Contract will be the DMS and the Contractor.
- E. **Contractor**: The Responsive and Responsible Respondent or vendor who is awarded a contract as a result of this solicitation.
- F. **Customers**: Tenants and visitors at facilities managed by the Department.
- G. **Division of Real Estate Management**: A division within the Department of Management Services.
- H. **Department**: The State of Florida, Department of Management Services, is referred to in this document as “DMS” or “Department”.
- I. **Heart Healthy**: Foods low in fats, sodium, and other ingredients that may foster heart diseases.
- J. **Food Services**: Cafeteria and/or snack bar, excluding vending machine services.
- K. **Product**: Any deliverable under the Contract, which may include commodities, services, technology or software.
- L. **Reply**: A Respondent’s formal response to an ITN.
- M. **Respondent**: A vendor who submits a Reply to this ITN.
- N. **Snack Bar Services**: Small-scale hot and cold breakfast and lunch.
- O. **State**: The State of Florida

1.02 Background

The Department currently contracts to provide food services at the following facilities/sites:

1. Capitol Building, Lower Level, 400 South Monroe Street, Tallahassee, Florida;
2. Capitol Building, 10th Floor, 400 South Monroe Street, Tallahassee, Florida; and
3. Capitol Circle Office Complex (CCOC), Department of Revenue, Building 2, 2450 Shumard Oak Boulevard, Tallahassee, Florida.

Vending machine services, currently provided by the Department of Education (DOE), Division of Blind Services (Blind Services), are not included in this solicitation. Blind Services will retain vending machine food services. Cafeteria services currently provided by Blind Services at the

CCOC Café, 4055 Esplanade Way, Tallahassee, Florida 32399, are not included in this solicitation.

Historical sales figures are not available.

1.03 Overview

The Department of Management Services, Division of Real Estate Development and Management is seeking Replies from interested vendors to provide food services for facilities listed in Form 10 – Facility List.

The Department intends to enter into one (1) Contract with a qualified Respondent whose Reply provides the best value to the State. However, the Department reserves the right in its sole discretion to award to multiple Respondents if doing so is in the best interest of the State. The Respondent must bid on all facilities/sites indicated in Form 10, Facility List.

The awarded Contractor(s) will provide food services as agreed upon in a negotiated Contract with other services as indicated in Attachment A, Statement of Work.

1.04 Goals of this ITN

- A. To establish a Contract(s) to provide food services at the Capitol Building and the Department of Revenue, Building 2.
- B. To establish a Contract(s) to provide a variety of high quality meal options at these facilities, including healthy choice options.
- C. To establish a Contract(s) that will best meet the needs of the State.

1.05 Procurement Officer

The Procurement Officer is the **sole point of contact** as described in PUR 1001, Section 21.

Procurement Officer for this solicitation is:

Caitlen Boles, Procurement Officer
Department of Management Services
4050 Esplanade Way, Suite 335.2Y
Tallahassee, FL 32399-0950
Telephone: (850) 410-1423
Email: dms.purchasing@dms.myflorida.com

*****ALL EMAILS TO THE PROCUREMENT OFFICER SHOULD CONTAIN THE SOLICITATION NUMBER IN THE SUBJECT LINE OF THE EMAIL.*****

1.06 Anticipated Contract Term

The Department anticipates that the Contract(s) will be executed prior to July 15, 2019 and services will commence within a reasonable time thereafter. The anticipated length of the initial term of the Contract(s) is five (5) years.

1.07 Renewal Term

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part, for renewal terms up to five (5) years. Any renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

1.08 Special Accommodation

Any person requiring a special accommodation because of a disability should call Departmental Purchasing at (850) 488-1308 at least five (5) business days prior to the scheduled event. Persons with hearing or speech impairments should call Departmental Purchasing by using the Florida Relay Service at (800) 955-8771 (TDD).

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SECTION 2 – SOLICITATION PROCESS

2.01 General Overview

The ITN is a method of competitively soliciting contractual services under Chapter 287, Florida Statutes. This solicitation will be administered through the Vendor Bid System (VBS). The Department will hold a public opening of the Replies at the date, time, and location provided in the Timeline of Events.

The ITN process is divided into two (2) phases: the evaluation phase and the negotiation phase. The evaluation phase involves the Department's evaluation of Replies in accordance with subsections 4.02 - 4.03 of the ITN. During the evaluation phase, the Department evaluates all responsive Replies using the assessment scale against all evaluation criteria to establish a competitive range of Replies reasonably susceptible of award. The Department then selects one (1) or more Respondents within the competitive range with which to commence negotiations.

The negotiation phase involves negotiations by the Department with the Respondent or Respondents whose evaluated Replies were determined to be within the competitive range. During the negotiation phase, the Department may request revised Replies and best and final offers (BAFOs) based on the negotiations.

Final contract terms will be established during the negotiation phase. Once negotiations have concluded and BAFO(s) have been received and reviewed, the Department will hold a negotiation team public meeting to recommend Contract award. The Department intends to post a Notice of Intent to award a Contract, identifying the responsive and responsible vendor that provides the best value to the State based on the selection criteria set forth in subsection 4.06.2 of the ITN.

The Department reserves the right to accept or reject or waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the best interests of the State. At its option, the Department may allow a Respondent to correct minor irregularities but is under no obligation to do so. In doing so, the Department may request a Respondent to provide clarifying information to correct the irregularity.

Any reservation or listing of reservations of the Department's rights provided in this ITN is not intended to be exhaustive and shall not be construed to limit the rights of the Department in conducting this procurement.

2.02 Order of Precedence

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

- Addenda to the ITN, if any;
- This ITN;
- All attachments and forms to this ITN.

2.03 Questions and Answers

Prior to the Negotiation Phase, Respondents may only submit questions during the Question and Answer period in writing to the Procurement Officer via email. The deadline for submission of questions is reflected in the Timeline of Events, subsection 2.04.

The Department requests that all questions have the solicitation number in the subject line of the email. Questions are requested to be submitted in the following format:

Question #	Respondent Name	Section	Page #	Question

Questions will not constitute a formal protest of the specifications of the solicitation. Department answers to written questions will be issued by addendum via the VBS.

2.04 Timeline of Events

The table below contains the Timeline of Events for this solicitation. The dates and times within the Timeline of Events are subject to change. It is the Respondent's responsibility to check for any changes. All changes to the Timeline of Events will be made through an addendum to the solicitation on the Vendor Bid System. Respondents are responsible for submitting all required documentation by the dates and times (Eastern Time) specified below (or as revised by addenda).

TIMELINE OF EVENTS		
Events	Event Time (ET)	Event Date
ITN posted on the VBS.		April 19, 2019
Non-Mandatory Site Visits (Sites listed on Form 10) (Contact Facility Manager to schedule)	By appointment only	April 29, 2019 – April 30, 2019
Deadline to submit questions to the Procurement Officer.	3:00 PM	May 3, 2019
Department's anticipated posting of answers to Respondents' questions on the VBS.		May 7, 2019
Deadline to submit the Reply and all required documents to the Procurement Officer.	2:00 PM	May 21, 2019
Public Opening. Conference Room 101 4050 Esplanade Way, Tallahassee, Florida 32399-0950	2:30 PM	May 21, 2019
Evaluation Phase.		May 28, 2019 to May 31, 2019
Evaluators' Public Meeting to confirm scores. Conference Room 101 4050 Esplanade Way, Tallahassee, Florida 32399-0950 Conference call # 1-888-585-9008 Participant code: 396-772-517	3:00 PM	June 5, 2019
Negotiations Phase.		June 10, 2019 to June 21, 2019
Negotiation Team Public Meeting Conference Room 109 4050 Esplanade Way, Tallahassee, Florida 32399-0950 Conference call # 1-888-585-9008 Participant code: 396-772-517	10:00 AM	June 25, 2019

TIMELINE OF EVENTS		
Events	Event Time (ET)	Event Date
Notice of Intent to Award posted on the VBS.		July 2, 2019
Anticipated Contract Start Date.		July 15, 2019

2.05 Non-Mandatory Site Visits

Respondents have the option to visit every site on Form 10, Facility List. The site visit will allow the Respondent the opportunity to review and inspect all general and specific conditions that may affect the preparation of a Reply, and/or the performance of the resultant Contract. If interested in scheduling a site visit, contact the Facility Manager listed on Form 10, Facility List, to schedule the visit on the dates indicated in Section 2.04, Timeline of Events.

The Department will accept oral questions during the site visit and will make a reasonable effort to provide answers at that time. However, the Department will only be bound by the written answers it issues in accordance with Section 2.03, Questions and Answers; no answers or discussions during the site visit shall be binding upon the Department.

2.06 Addendum to the Solicitation

The Department reserves the right to modify this solicitation by issuing an addendum posted on the VBS. It is the Respondent’s responsibility to check the VBS for any changes.

2.07 Receipt of Replies

2.07.1 Reply Deadline

The Respondent is responsible for ensuring the Department receives the Reply no later than the date and time provided in subsection 2.04 of this ITN (or as revised by addenda). Address Reply to the Procurement Officer at:

Caitlen Boles
 Departmental Purchasing
 Florida Department of Management Services
 4050 Esplanade Way, Suite 335A
 Tallahassee, FL 32399-0950
 Telephone: (850) 488-0510
 Email: DMS.Purchasing@dms.myflorida.com

All methods of delivery or transmittal to the Procurement Officer are exclusively the responsibility of Respondents. The risk of non-receipt or delayed receipt shall be borne exclusively by the Respondents.

2.07.2 Clarifications to Replies

No changes, modifications, or additions to the Replies will be allowed after the Replies have been opened, except as negotiated during the negotiation phase. However, the Department reserves the right to seek clarifications from any Respondent at any time.

2.08 Respondent Firm Offer

The Department may enter into a Contract within three hundred sixty-five (365) calendar days after the date of the Notice of Intent to Award, during which period Replies shall remain firm and shall not be withdrawn. If a Contract is not executed within three hundred sixty-five (365) calendar

days, the Replies shall remain firm until either the Contract is executed or the Department receives from a Respondent written notice that its Reply is withdrawn. Any Reply that expresses a shorter duration may, in the Department's sole discretion, be accepted or rejected.

SECTION 3 – General Instructions

3.01 Introduction

This section contains the Instructions to Respondents.

3.02 MFMP Registration

The awarded Respondent, if any, must have completed this process prior to Contract execution. For additional information, please visit: <https://Respondent.myfloridamarketplace.com/>.

The awarded Respondent will be required to pay the required MFMP transaction fee(s) as specified in subsection 3.4 of Attachment B - Contract, unless an exemption has been requested and approved pursuant to Rule 60A-1.031, Florida Administrative Code.

3.03 Florida Substitute Form W-9 Process

A State of Florida Contractor **must** have registered and completed an electronic Florida Substitute Form W-9. The Internal Revenue Service (IRS) receives and validates the information Respondents provide on the Form W-9.

For instructions on how to complete the Florida Substitute Form W-9, please visit: <http://www.myfloridacfo.com/Division/AA/StateAgencies/W-9Instructions022212.pdf>

The awarded Respondent must have completed this process prior to Contract execution.

3.04 How to Submit a Reply

It is the Respondent's responsibility that its Reply is received by the Department by the date and time provided in subsection 2.04 of this ITN (or as revised by addenda). The box(es) must contain the following:

- One (1) original, un-redacted version of the Reply and five (5) un-redacted, bound paper copies;
- One (1) scanned copy of the entire Reply in Adobe (.pdf) on a USB flash drive. Large files should be scanned as separate files; and
- One (1) electronic redacted copy of the entire Reply on a USB flash drive (if redaction is applicable, as described in subsection 3.08 of this ITN).

All electronic documents are to be searchable to the fullest extent practicable. Paper and electronic copies of Replies are to consist of identical information. In the event of a conflict between the copies, the original paper Reply controls.

Clearly mark on the outside of the sealed package the solicitation number, company name, and Procurement Officer Name.

Submit Replies to the Procurement Officer at the address listed in subsection 1.05, Procurement Officer.

Prepare Replies simply and economically by providing a straightforward, concise delineation of the Respondent's capabilities to satisfy the requirements of this solicitation. The emphasis of each Reply should be on completeness and clarity of content.

3.05 Mandatory Responsiveness Requirements

The Department will not evaluate Replies from Respondents that do not meet the minimum mandatory requirements listed below. The Respondent's narrative on Experience and Qualifications and the Technical Proposals will be addressed at the evaluation phase and will not be evaluated for the responsiveness determination.

Respondents must provide a signed Form 9, Mandatory Responsiveness Requirements, and provide the required documentation requested in this subsection. By submitting a Reply, the Respondent certifies that it either meets or exceeds the requirements below.

3.05.1 Respondent must certify that the individual signing is authorized to respond to this ITN on behalf of Respondent.

3.05.2 The Respondent must certify that neither it, nor its affiliates, is a convicted vendor or a discriminatory vendor as described in sections 287.133 and section 287.134, Florida Statutes, respectively.

3.05.3 The Respondent must certify that the Respondent is not listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, and is not participating in a boycott of Israel.

3.05.4 The Respondent must certify that by commencement of operations, Respondent will have all licenses including all necessary Permanent Food Service (seating and non-seating) licenses from the Department of Business and Professional Regulation (DBPR), and county authority, as applicable, and will have satisfied all legal requirements to provide the services to DMS throughout the term of the Contract.

3.05.5 The Respondent must certify that the Respondent is currently authorized to do business with the State, or will attain authorization through the Department of State, Division of Corporations, should the Respondent be awarded the Contract. Website: www.sunbiz.org

NOTE: Pursuant to section 607.1503(1), Florida Statutes, Corporations, out-of-state corporations are required to obtain a Florida Certificate of Authorization from the Florida Department of State, Division of Corporations, to transact business in the State of Florida. The Respondent agrees to attain such authorization within seven (7) business days of notice of award, should the Respondent be awarded. Website: www.sunbiz.org

NOTE: The certifications required in Section 3.05.1 through 3.05.5 of this ITN are to be accomplished through the execution of Form 9.

3.05.6 The Respondent shall provide sample menu(s) for all three (3) sites, as noted in Form 10. Please note if a submitted sample menu is applicable to multiple sites.

3.05.7 The Respondent must have a minimum of five (5) years' experience providing the same or similar services as those described in this solicitation, demonstrated by a submitted Form 6, Business Experience. (The Respondent may submit Form 6 as many times as necessary to demonstrate the five (5) years of experience).

3.06 Contents of Reply

The Department reserves the right to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the best interest of the State.

The Respondent should organize the Reply as follows:

- Tab 1** A cover letter on the Respondent's letterhead with the following information:
- a) Name and headquarters location of the Respondent;
 - b) Contact information for primary point of contact, including telephone number and email address; and
 - c) Federal Employer Identification (FEID) Number.
- Tab 2** Completed FORMS
- FORM 1 – RESPONDENT'S CONTACT INFORMATION
 - FORM 2 – CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM
 - FORM 3 – NOTICE OF CONFLICT OF INTEREST
 - FORM 4 – NON-COLLUSION STATEMENT
 - FORM 5 – STATEMENT OF NO INVOLVEMENT
 - FORM 6 – BUSINESS EXPERIENCE
 - FORM 7 – ADDENDUM ACKNOWLEDGEMENT
 - FORM 8 – SUBCONTRACTING
 - FORM 9 – MANDATORY RESPONSIVENESS REQUIREMENTS
- Tab 3** Facility Proposal
Please provide a detailed narrative and all requested documentation which will be evaluated in accordance with the criteria listed in Section 4.03, Item A.
- Tab 4** Sample menu(s) for each of the following sites as indicated in Section 1.03:
- Capitol Building (Lower Level)
 - Capitol Building (10th Floor)
 - Capitol Circle Office Complex, Building 2450 – 2
- Tab 5** Alternate Approach
The Respondent may propose an alternate approach for any minimum services requirement and provide an explanation in this section. The Department, in its sole discretion, may consider any proposed alternate approach. During the negotiation phase, the Department may, at its sole discretion, modify, reduce or eliminate minimum service requirements when it determines it is in the best interest of the State to do so.

3.07 Sample Menu(s) – Initial Pricing

The Respondent shall provide sample menus for each of the following sites:

- Capitol Building (Lower Level)
- Capitol Building (10th Floor)
- Capitol Circle Office Complex, Building 2450 – 2

The Respondent shall insert the sample menus under Tab 4 of its Reply.

3.08 Public Records, Respondent's Confidential Information, and Redacted Replies

The following subsections supplement section 19 of the PUR 1001. By submitting a Reply, the Respondent agrees to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its Reply are confidential, proprietary, trade secret or otherwise not subject to disclosure. **If the Respondent fails to mark material exempt, or fails to submit a redacted copy of information it claims is confidential, the Department is authorized to produce, in their entirety, all documents, data, or records submitted to the Department in answer to a public records request for these records.**

3.08.1 Public Records

All electronic and written communications pertaining to this ITN, whether sent from or received by the Department, are subject to Florida's public records law, Chapter 119, Florida Statutes. Section 3.08.4 below addresses the submission of trade secret and other information exempted from public inspection.

3.08.2 Replies are Public Records

All materials submitted as part of a Reply to this ITN will be a public record subject to the provisions of Chapter 119, Florida Statutes. Selection or rejection of a Reply does not affect the public record status of the materials.

3.08.3 Replies will be Subject to Public Inspection

Unless exempted by law, all public records are subject to public inspection and copying under Florida's public records law, Chapter 119, Florida Statutes. A time-limited exemption from public inspection is provided for the contents of Replies pursuant to subsection 119.071(1)(b), Florida Statutes. Once that exemption expires, all contents of Replies become subject to public inspection unless another exemption applies. Any claim of trade secret exemption for any information contained in Respondent's Reply will be waived upon submission of the Reply to the Department, unless the claimed trade secret information is submitted in accordance with Section 3.08.4. This waiver includes any information included in the Respondent's Reply outside of the separately bound document described below.

3.08.4 How to Claim Trade Secret or Other Exemptions

If a Respondent considers any portion of materials made or submitted in the course of replying to this ITN to be trade secret under section 812.081, Florida Statutes, or otherwise confidential under Florida or Federal Law, in order to preserve the confidentiality of the material, the Respondent must clearly designate that portion of the materials as "confidential" when submitted to the Department. The Respondent must submit all such information as a separately bound, *unredacted* document clearly labeled "Confidential, Unredacted Reply" together with a brief written description of the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption.

Respondent is to also simultaneously provide the Department with a separate, electronic *redacted* copy of its Reply. The file name of the electronic redacted copy is to contain the name of Respondent, the ITN number, and redacted copy (e.g., Respondent Name DMS ITN _redacted copy.pdf). Prominently display the phrase "Redacted Copy" on the first page of the electronic redacted copy and each page on which information is redacted.

This is to be submitted no later than the Reply submittal deadline. Where such information is part of material already required to be submitted as a separately bound or enclosed

portion of the Reply, further segregate it and separately bind or enclose and clearly label it as set forth above in addition to any other labeling required for the material.

If Respondent is invited into negotiations, it will be incumbent upon the Respondent to identify, in real-time, portions of the Respondent's negotiation sessions which include references to materials and/or information Respondent claims are confidential, proprietary, trade secret, or otherwise not subject to disclosure. The Respondent is responsible for defending its determination that the portions of the negotiation sessions are exempt and not subject to disclosure.

3.08.5 Public Records Request

If a Respondent fails to mark any materials submitted to the Department as exempt or fails to submit a redacted copy as provided in this section or fails to claim, in real-time, portions of the negotiations sessions as exempt, the Respondent **waives** the exemption, and the Department may produce all of Respondent's documents, data or records or Department's recordings of negotiation sessions to any person requesting a copy under Chapter 119, Florida Statutes. The Respondent exclusively bears the burden of complying with Section 3.08 to ensure its exempt information is appropriately marked and protected. If a requestor asserts a right to the Confidential Information, the Department will notify the Respondent that such an assertion has been made. It is the Respondent's responsibility to assert that the information in question is exempt from disclosure under Chapter 119 or other applicable law. If the Department becomes subject to a demand for discovery or disclosure of the Confidential Information of the Respondent in a legal proceeding, the Department will give the Respondent prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). The Respondent is responsible for defending its determination that the redacted portions of its Reply are confidential, proprietary, trade secret or otherwise not subject to disclosure.

3.08.6 Department Not Obligated to Defend Respondent's Claims

The Department is not obligated to agree with a Respondent's claim of exemption and, by submitting a Reply, the Respondent agrees to defend its claim that each and every portion of the redactions is exempt from inspection and copying under Florida's Public Records Law. Further, by submitting a Reply, the Respondent agrees to protect, defend, indemnify and hold harmless the Department for any and all claims and litigation (including litigation initiated by the Department), including attorney's fees and costs, arising from or in any way relating to Respondent's assertion that the redacted portions of its Reply or portions of the negotiation sessions are trade secrets or otherwise exempt from public disclosure under Chapter 119, Florida Statutes. The Department may use counsel of its choosing to defend any such claims, and the Respondent shall promptly pay the Department's invoices for legal services on a monthly basis for all costs and expenses, including legal fees, incurred in defending such claims.

3.09 General Instructions to Vendors (PUR 1001 Form) and General Contract Conditions (PUR 1000 Form).

In accordance with Rule 60A-1.002(5), F.A.C., Form PUR 1000 is incorporated by reference into Attachment B – Contract. Form PUR 1001 is incorporated herein by reference, but is superseded to the extent set forth herein.

The PUR 1001 and the PUR 1000 forms can be found at:

http://www.dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms.

Sections 3, 5, 9, and 14 of the PUR 1001 (General Instructions) are inapplicable and are replaced as follows:

Section 3. Electronic Submission of Offers

Replies shall be submitted in accordance with Section 3.04, How to Submit a Reply.

Section 5. Questions

Submit questions in accordance with Section 2.03, Questions and Answers.

Section 9. Respondent's Representation and Authorization.

In submitting a Reply, each Respondent understands, represents, and acknowledges the following:

- The Respondent is not currently under suspension or debarment by the State or any other governmental authority.
- 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 Reply.
- 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 Department in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a), 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 a position involving the administration of 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 (1) or more federal, state, or local government contracts terminated for cause or reason of default that would impair the Respondent's ability to deliver the commodities or contractual services of the resultant contract.
- The commodities or contractual services 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 Reply, 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 Reply.
- The Respondent shall indemnify, defend, and hold harmless the Department and Customers, and their employees against any cost, damage, or expense which may be incurred or be caused by any error in the Respondent's Reply.
- All information provided by, and representations made by, the Respondent are material and important and will be relied upon by the Department in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Department of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817, Florida Statutes.
- If at any point during the course of the procurement, circumstances change so that any of the above acknowledgements are no longer true, Respondent will notify the procurement officer as soon as practicable.

Section 14 – Firm Response

The offer will be held firm in accordance with Section 2.08, Respondent Firm Offer.

3.10 Additional Information

By submitting a Reply, the Respondent certifies that it agrees to and satisfies all criteria specified in this solicitation. The Department reserves the right to seek written clarification from a Respondent, and to request supporting information or documentation. Failure to supply clarifying or supporting information or documentation as requested may result in the Reply being deemed nonresponsive.

3.11 Subcontracting

The Contractor will be fully responsible for all work performed under the Contract. The Contractor is solely responsible for ensuring that its subcontractor performs. Any Contractor shall use only those subcontractors properly and specifically identified in Form 8, Subcontracting, of the Reply, and approved by the Department, except as permitted below. The Department has final approval authority of proposed subcontractors.

3.11.1 Subcontracting after Contract Execution

To subcontract any services to a subcontractor not originally identified in the Reply, a Contractor must submit a written request to the Department's Contract Manager identified in the Contract. Submit the written request using Form 8 and a narrative including the following:

- The name, address, and other information identifying the subcontractor;
- Type of services to be performed by the subcontractor;
- Time of performance for the identified service;
- How the Contractor plans to monitor the subcontractor's performance of the identified services;
- How the Contractor will ensure that required Background Screening is completed by the identified subcontractor's employees.
- Certification that the subcontractor has all licenses and county authority, as applicable, and/or has satisfied all legal requirements to provide the services to the Department. Also, the Contractor shall certify that the subcontractor is

approved by the Florida Department of State to transact business in the State of Florida. If the subcontractor is an out-of-state company, it must have a Florida Certificate of Authority from the Department of State, Division of Corporations, to transact business in the State of Florida. For additional information, please visit the following website: www.sunbiz.org;

- A copy of the written subcontract agreement; and
- Acknowledgement from the subcontractor of the Contractor’s contractual obligation to the Department and that the subcontractor agrees to comply with all terms and conditions of the resulting Contract.

By execution of a Contract resulting from this solicitation, the Contractor will acknowledge that it will not be released of its contractual obligations to the Department because of any subcontract. The Contractor will be solely responsible for ensuring the subcontractor maintains all required insurance. The Contractor’s use of a subcontractor not contained herein and/or approved by the Department will be considered a breach of Contract.

SECTION 4 – SELECTION METHODOLOGY

4.01 Reply Disqualification

The Department reserves the right to determine which Replies meet the requirements of this solicitation and which Respondents are responsive and responsible.

4.02 Evaluation Process – General Overview

The Department will appoint an evaluation team for the evaluation and scoring of the responsive Replies for the evaluation phase. All Replies that meet the Mandatory Responsiveness Requirements and are determined to be responsive will be evaluated as described in this section.

Each evaluator will be provided a copy of each Respondent’s Reply that is deemed responsive. Each evaluator will independently evaluate and score Replies against the evaluation criteria set forth in this section, in order to establish a competitive range of Replies reasonably susceptible of award.

4.03 Response Evaluation Criteria

Responsive Replies will be evaluated based on the criteria listed below.

Facility Proposal		
Experience and Qualifications	(0 - 30 points)	(30%)
<u>Technical Proposal</u>	<u>(0 - 70 points)</u>	<u>(70%)</u>
Total Project Proposal Points	(0 – 100 points)	(100%)
Total Score	<u>(0 - 100 points)</u>	<u>(100%)</u>

Using the assessment scale below, the evaluators will assign scores based on the quality of the Experience and Qualification responses and Technical Proposals. In determining the quality of the Respondent’s response, the evaluators will use the following guiding questions:

- How well does the Respondent’s response demonstrate an understanding of the services/products requested?
- How well does the Respondent’s response demonstrate the Respondent’s experience and ability to provide the services/products?

- How well does the Respondent's response address the requested services/products?

Assessment	Evaluator Score
Inadequate	1
Poor	2
Adequate	3
Good	4
Exceptional	5

EVALUATION SUMMARY SCORE SHEET					
	Maximum Raw Score Possible		Weight Factor		Maximum Points Possible
1. Experience and Qualifications	5	X	6	=	30
2. Technical Proposal	5	X	14	=	70
TOTAL:					100

A. Facility Proposal

1. Experience and Qualifications (Maximum 30 points)

Respondents should provide the following information to support Respondent's experience and qualifications in successfully providing services of similar size and scope to those required by this solicitation:

- a. A list of current contracts (minimum of 3) of similar size and scope where the Respondent has provided services as a Contractor, subcontractor or partner. The list shall also contain the entity name, facility size, type of food service provided, contact name, address, telephone number and e-mail address of the entity who received the services from the Respondent. Consideration shall be given to the duration of such contracts, the volume of services and the quality of services provided.
- b. A sample staffing plan, including individual resumes and certifications for your proposed team or management staff and any training policies.
- c. A narrative on the Respondent's ability to provide the operational services described in this solicitation based upon its past professional experience and performance.

2. Technical Proposals (Maximum 70 points)

Respondents should provide the following information as a Technical Proposal:

- a. Sample menu offerings with itemized listings for both breakfast and lunch, including snack and grab-and-go options. Designate those items that are vegetarian and/or Heart Healthy. If appropriate, describe any seasonal changes to the menus. Include the nutritional breakdown for each item including but not limited to serving size, calories, calories from fat, saturated fat, cholesterol, sodium, carbohydrates, fiber, sugars and protein.
- b. A narrative describing the type of food service equipment you will use and your plan to maintain this equipment.

- c. A narrative describing how Fresh from Florida fruits and vegetables will be incorporated into the menu offerings.
- d. A narrative describing the marketing, outreach, advertising plan, and website information.
- e. A narrative describing the Respondent's willingness to enter a commission or fee-based contract, including any innovative proposals related to fee structure or amount.

The Department reserves the right to request additional information for evaluation if needed. The Department also reserves the right to accept or reject any and all Replies, or separate portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interest.

4.04 Negotiation Process

4.04.1 General Overview

After the evaluation of Replies based on the criteria, the Department will establish a competitive range of Replies reasonably susceptible of award, and will select one or more Respondents within the competitive range to commence negotiations.

The evaluator scoring does not carry forward into the negotiations.

The Department will establish a negotiation team to conduct the negotiations. The negotiation team will make a recommendation of (an) award to the Respondent that will provide best value based on the selection criteria in the ITN. The negotiation team will not be bound by evaluator scoring.

The Department reserves the right to negotiate different terms, additional terms, and related price adjustments if the Department determines that such changes would provide the best value to the State. Additional operational requirements may be defined and clarifications required.

The Department may require additional service details, supplies, staffing, and documentation. The negotiation team may request or entertain proposed alternative terms or deliverables during negotiations but is under no obligation to accept proposed alternative terms or deliverables.

The Department reserves the right to negotiate concurrently or sequentially with competing Respondent(s). Negotiations will not be open to the public, but will be recorded.

Negotiation meetings will be conducted in Tallahassee, Florida. The Department reserves the right to schedule negotiations at a different location in the State. The Department may distribute an agenda in advance of any negotiation session. Representatives for each Respondent should plan to be available, at least by telephone, without interruptions, for the entirety of the Respondent's scheduled negotiation meeting(s).

Negotiations will continue as determined by the negotiation team, until acceptable terms and conditions are agreed upon through a BAFO, if applicable, or it is determined that an acceptable agreement cannot be reached. The Department reserves the right to conclude negotiations at any time and proceed to contract award.

4.04.2 Respondent Attendance at Negotiations

The Department reserves the right to limit the number of representatives permitted to attend the negotiation sessions in person.

4.04.3 Revised Replies and Best and Final Offers

During the negotiation phase, the Department may request clarification and revisions to Replies (including BAFOs) and identify information to be submitted to the Department until it is satisfied that it has achieved the best value for the State. Failure to provide information requested by the Department during the negotiation phase may result in termination of negotiations with the Respondent.

4.04.4 Other Department Rights During Negotiations

The Department reserves the right at any time during the negotiation process to:

- a) Schedule additional negotiation sessions with any or all Respondents.
- b) Require any or all Respondents to provide additional, revised or final written Replies addressing specific topics, including, but not limited to, modifications to the solicitation specifications, terms or conditions, or business references.
- c) Require any or all Respondents to provide revised Replies and written BAFO(s).
- d) Require any or all Respondents to address services, prices, or conditions offered by any other Respondent.
- e) Discuss and enter into a commission or fee-based contract.
- f) Negotiate hours of operation which may fluctuate depending on the season/needs of the sites.
- g) Negotiate menu options different from the initial menu items provided in the Sample Menu(s).
- h) Pursue a Contract with one (1) or more Respondents for the services encompassed by this solicitation, including any addendums thereto and any request for additional, revised, or final written Replies or requests for BAFO(s).
- i) Pursue the division of contracts between Respondents by type of service or geographic area, or both.
- j) Finalize Contract terms and conditions with any Respondent at any time.
- k) End negotiations with any or all Respondents at any time, regardless of the status of or schedule of negotiations, and to continue with other Respondents, or not continue with any Respondents.
- l) Conclude negotiations at any time and proceed to Contract award.
- m) Re-open negotiations with any responsive Respondent.
- n) Take any additional administrative steps deemed necessary in determining the final award, including conducting demonstrations, additional fact-finding, evaluation, or negotiation where necessary and consistent with the terms of this solicitation.
- o) Request the assistance of and use subject matter experts for any portion of the procurement or throughout the procurement.
- p) Review and rely on relevant information contained in the Replies.
- q) Request pricing options different from the initial pricing provided in the Sample Menu(s). This information may be used in negotiations.
- r) Request business references and materials related to a reference check. If requested, the following guidelines will apply:
 - References should be directly relevant to the services in the solicitation.
 - References will not be accepted from:
 - Current employees of the Department.

- Former employees of the Department within the past three (3) years.
 - Persons currently or formerly employed by the Respondent's organization.
 - Board members of the Respondent's organization.
 - Relatives of Respondent's employees or Board members.
 - Corporations based solely in a foreign country.
 - Members of the Respondent's organization who have written, completed, and submitted the form on behalf of the reference.
- s) Contact Respondent's Customers or other entities with information relevant to the Respondent's responsibility, experience, and/or ability.

The Department has sole discretion in deciding whether and when to take any of the foregoing actions, the scope and manner of such actions, the Respondent affected, and whether to provide concurrent public notice of such action.

4.04.5 Negotiation Meetings Not Open to Public

In accordance with section 286.0113, Florida Statutes, negotiations between the Department and Respondents are exempt from Chapter 286, Florida Statutes, and s. 24(b), Art. I of the State Constitution. Also, any portion of a team meeting at which negotiation strategies are discussed are exempt from section 286.011, Florida Statutes.

The Department will record all meetings of the negotiation team and all negotiation meetings between the Department and Respondents, as required by law, and such recordings will eventually become public record pursuant to Chapter 286, Florida Statutes. During negotiations, Respondents must inform the Department if any portion of the meetings should be considered confidential, proprietary, trade secret, or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution, or other authority, so that the Department can make appropriate arrangements for the segregation of the recording. If the Respondent fails to inform the Department that any portion of the negotiation meetings should be considered confidential, proprietary, trade secret or otherwise not subject to disclosure, the Department is authorized to produce the audio recording in answer to a public records request for these records.

4.05 Final Selection and Notice of Intent of Award Contract

4.06.1 Award Selection

If a Contract is awarded, the Contract will be awarded to the responsive and responsible Respondent(s) whose BAFO is assessed as providing the best value to the State in accordance with the selection criteria of this ITN.

4.06.2 Selection Criteria

The following award selection criteria will apply for this ITN:

- a) The Respondent's demonstration of its prior relevant experience, including track record, and the overall professional experience of the Respondent at providing the proposed services;
- b) The Respondent's technical ability and approach to meeting the goals of the ITN, as stated in Section 1.04;
- c) The Respondent's technical ability and approach to providing the services sought in the Statement of Work; and
- d) The Respondent's pricing.

4.06.3 Department's Negotiation Team Recommendations

The Department's negotiation team will develop a recommendation as to the Contract award that will provide the best value to the State based on the selection criteria.

SECTION 5 - AWARD

5.01 Rights for Award

The Department reserves the right to:

- Select one (1) or multiple Respondent(s) for the services encompassed by this solicitation, any addenda thereto and any request for additional or revised detailed written Replies.
- Award a contract for less than the entire service area.
- Award and contract with other responsive Respondents in the event that the Department is unable to contract with the initially awarded Respondent.
- Reject all Replies, and determine whether to reissue a competitive solicitation.
- Withdraw or cancel the procurement and make no award.

5.02 Agency Decision

The Department will post a Notice of Intent to Award to enter into one (1) contract with the Respondents identified therein, on the VBS website: http://vbs.dms.state.fl.us/vbs/main_menu.

If the Department decides to reject all Replies, it will post its notice on the VBS website: http://vbs.dms.state.fl.us/vbs/main_menu.

5.03 Other Reserved Rights

- The Department has the right to use any or all ideas or adaptations of the ideas presented in any Reply. Selection or rejection of a Reply will not affect this right.
- The Department reserves the right, after posting a Notice of Intent to Award, to withdraw or cancel the procurement, or amend its notice of intent to award and re-open negotiations with any Respondent at any time prior to execution of a Contract.

5.04 No Contract until Execution

A notice of intent to award under this ITN shall not constitute or form any Contract between the Department and a Respondent. No Contract shall be formed until such time as a Respondent and the Department formally execute a Contract with requisite written signatures.

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SECTION 6 – FORMS INSTRUCTION AND INFORMATION

Complete and return in accordance with Section 3.06, Contents of Reply:

FORM 1 – RESPONDENT’S CONTACT INFORMATION

FORM 2 – CERTIFICATION OF DRUG-FREE WORKPLACE PROGRAM

FORM 3 – NOTICE OF CONFLICT OF INTEREST

FORM 4 – NON-COLLUSION AFFIDAVIT

FORM 5 – STATEMENT OF NO INVOLVEMENT

FORM 6 – BUSINESS EXPERIENCE

FORM 7 – ADDENDUM / AMENDMENT ACKNOWLEDGEMENT FORM

FORM 8 – SUBCONTRACTING

FORM 9 – MANDATORY RESPONSIVENESS REQUIREMENTS

THIS SPACE INTENTIONALLY LEFT BLANK

FORM 1 – RESPONDENT’S CONTACT INFORMATION

For solicitation purposes, the Respondent’s contact person will be:

Should the Respondent be awarded the Contract, the Account Manager’s contact information will be:

Name _____

Title _____

Company Name _____

Address _____

Telephone _____

Fax _____

E-mail _____

FEID # _____

Name of Respondent’s Organization

Signature of Authorized Representative and Date

Print Name

FORM 3 - NOTICE OF CONFLICT OF INTEREST

Company or Entity Name _____

For the purpose of participating in the solicitation process and complying with the provisions of Chapter 112, Florida Statutes, the company states the following conflict(s) of interest exists as noted below (if none, write N/A in the applicable section(s) below):

The persons listed below are corporate officers, directors or agents and are currently employees of the State of Florida or one of its agencies:

_____	_____
_____	_____
_____	_____

The persons listed below are current State of Florida employees who own an interest of five percent (5%) or more in the company/entity named above:

_____	_____
_____	_____
_____	_____

Name of Respondent's Organization

Signature of Authorized Representative and Date

Print Name

FORM 4 - NON-COLLUSION AFFIDAVIT

I state that I _____ of _____,
(Name and Title) (Name of Firm)

am authorized to make this statement on behalf of my firm and its owner, directors and officers. I am the person responsible in my firm for the price(s) and amount(s) of this Reply, and the preparation of the Reply. I state that:

1. The price(s) and amount(s) of this Reply have been arrived at independently and without consultation, communication or agreement with any other Provider, potential provider, Reply, or potential Reply.
2. Neither the price(s) nor the amount(s) of this Reply, and neither the approximate price(s) nor approximate amount(s) of this Reply, have been disclosed to any other firm, vendor, Respondent, or potential Respondent, and they will not be disclosed before Reply opening.
3. No attempt has been made or will be made to induce any firm or persons to refrain from submitting a Reply for this contract, or to submit a price(s) higher than the prices in this Reply, or to submit any intentionally high or noncompetitive price(s) or other form of complementary Reply.
4. The Reply of my firm 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 Reply.
5. _____, its affiliates, subsidiaries, officers, director, and employees
(Name of Firm)
are not currently under investigation, by any governmental agency and have not in the last ten years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to Reply, on any public contract, except as follows:

I state that I and the named firm understand and acknowledge that the above representations are material and important, and will be relied on by the State of Florida for which this Reply is submitted. I understand and my firm understands that any misstatement in this statement is, and will be treated as, fraudulent concealment from the State of Florida of the true facts relating to the submission of Replies for this contract.

Dated this _____ day of _____

Name of Firm: _____

Signed by: _____

Print Name _____

FORM 5 - STATEMENT OF NO INVOLVEMENT

I, as an authorized representative of the Respondent, certify that nothing in section 287.057(17)(c), Florida Statutes (below), prohibits the Respondent's entry into any Contract resulting from this solicitation.

287.057 Procurement of commodities or contractual services. —

(17)(c) A person who receives a contract that has not been procured pursuant to subsections (1)-(3) [of s. 287.057, F.S.] to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a solicitation or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract. However, this prohibition does not prevent a Respondent who responds to a request for information from being eligible to contract with an agency.

Name of Respondent's Organization

Signature of Authorized Representative and Date

Print Name

FORM 6 – BUSINESS EXPERIENCE

Provide the information requested below. Print and complete this form as many times as needed to demonstrate at least five (5) years of experience in providing the same or similar services sought in this procurement. The Department may contact the persons listed below. The experience cannot be from:

- a. Current employees of DMS.
- b. Former employees of DMS within the past three (3) years.
- c. Persons currently or formerly employed by the Respondent’s organization.
- d. Board members of the Respondent’s organization.
- e. Relatives.
- f. Corporations based solely in a foreign country.
- g. A member of the Respondent’s organization who has written, completed and submitted the form on behalf of the reference.
- h. Any person involved in the drafting of this RFP or the procurement process.

The same entity may not be listed more than once.

In the event the Respondent has had a name change since the time work was performed for a listed reference, the name under which the Respondent operated at that time should be provided in the space provided for “Brief Summary of Services.”

The Department reserves the right to contact entities stated below, and also other than those identified by the Respondent, to obtain additional information regarding past performance. Any information obtained as a result of such contact may be used to determine whether or not the Respondent is a “responsible Vendor”, as defined in Section 287.012(25), Florida Statutes.

Information	
Company name	
Contact Person	
Title	
Address	
City	
State	
Telephone Number	
Email Address	
Contract Period (contract start date to contract end date)	
Brief Summary of Services	

FORM 7 – ADDENDUM / AMENDMENT ACKNOWLEDGEMENT FORM

This acknowledgment form serves to confirm that the Respondent has reviewed, complied and/or accepted all Addendum(s) / Amendment(s) to the solicitation posted on the Vendor Bid System (VBS).

Please list all Addendum(s) / Amendment(s) below.

FORM 8 – SUBCONTRACTING

Complete the information below on all subcontractors that will provide services to the Respondent to meet the requirements of the resultant contract, should the Respondent be awarded. Submission of this form does not indicate the Department's approval, but provides the Department with information on proposed subcontractors for review.

Please complete a separate sheet for each subcontractor.

There will be subcontractors for this solicitation YES ____ NO ____ (place a checkbox where applicable). If not, Respondents are not required to complete the remainder of this form.

Service: _____

Company Name: _____

Contact: _____

Address: _____

Telephone: _____

Fax: _____

Current Office of Supplier Diversity certification of woman-, veteran, or minority-owned small business enterprise Yes _____ No _____

W-9 verification: Yes _____ No _____

In a job description format, describe below the responsibilities and duties of the subcontractor based on the technical specifications or statement of work outlined in this solicitation.

FORM 9 – MANDATORY RESPONSIVENESS REQUIREMENTS

<p>Respondent certifies that the individual signing is authorized to respond to this ITN on behalf of Respondent.</p>
<p>The Respondent certifies that neither it, nor its affiliates, is a convicted vendor or a discriminatory vendor as described in section 287.133 and section 287.134, Florida Statutes, respectively.</p>
<p>The Respondent certifies that the Respondent is not on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, and is not participating in a boycott of Israel.</p>
<p>The Respondent certifies that that by commencement of operations, Respondent will have all licenses including all necessary Permanent Food Service (seating and non-seating) licenses from the Department of Business and Professional Regulation (DBPR), and county authority, as applicable, and will have satisfied all legal requirements to provide the services to DMS throughout the term of the Contract.</p>
<p>The Respondent certifies that the Respondent is currently authorized to do business with the State, or will attain authorization through the Department of State, Division of Corporations, should the Respondent be awarded the Contract. Website: www.sunbiz.org</p>
<p>The Respondent certifies it has provided the Department with sample menu(s) for all three (3) sites.</p>
<p>The Respondent certifies that the Respondent has a minimum of five (5) years' experience providing the same or similar services as those described in this solicitation, demonstrated by a submitted Form 6, Business Experience. (The Respondent may submit Form 6 as many times as necessary to demonstrate the five (5) years of experience).</p>

Signature below certifies that the signatory has the authority to respond to this solicitation on the Offeror's behalf, and certifies conformance with all Responsiveness Requirements listed above.

Name of Respondent's Organization

Printed Name of Organization's Authorized Representative

Signature of Organization's Authorized Representative

Date

FORM 10 – FACILITY LIST

FACILITY	SITE	FACILITY MANAGER	TYPE OF FOOD SERVICE	SQUARE FEET	EMPLOYEE COUNT (as reported in FL SOLARIS)
Capitol Building	Lower Level 400 South Monroe St. Tallahassee, FL	Derick Allen 850-487-1534	Full-Service Cafeteria	6,763	513
	10th Floor 400 South Monroe St. Tallahassee, FL		Café and Snack Bar	2,693	
Capitol Circle Office Complex, Building 2450 - 2	2450 Shumard Oak Boulevard, Tallahassee, FL	Rance Grubbs 850-414-8636	Café and Snack Bar	1,520	1,982

The employee count in the chart above was determined using data from the Florida State-Owned Lands and Records Information System (SOLARIS). SOLARIS is a legislatively mandated database utilized to record and maintain the inventory of real estate properties that are owned, leased, rented, or otherwise occupied by any state government entity. This data was extracted on April 4, 2019. The Capitol Building typically has a drop-in employee count outside of the annual legislative session.



**ATTACHMENT A
STATEMENT OF WORK
FOR
FOOD SERVICES**

DMS-18/19-020

**THE STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES**

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SECTION 1. STATEMENT OF WORK

- 1.1 The awarded Contractor(s) shall provide Food Services with a variety of high quality meal offerings, including healthy choice menu options.
- 1.2 Information for each facility, the food service area size, number of employees housed in the facility and seasonal shifts in employees is provided in **ITN No: DMS-18/19-020**, Form 10, Facility List. The facility sites are as follows:
 - Capitol Building, Lower Level, 400 South Monroe Street, Tallahassee, Florida;
 - Capitol Building, 10th Floor, 400 South Monroe Street, Tallahassee, Florida; and
 - Capitol Circle Office Complex (CCOC), Department of Revenue, Building 2, 2450 Shumard Oak Boulevard, Tallahassee, Florida.
- 1.3 Respondents shall be responsible for performing services in strict compliance with the requirements and rules, regulations and governance contained in this ITN. No deviations from the minimum service requirements shall be permitted without the prior written approval of the Department's Contract Manager.

SECTION 2. CONTRACTOR DELIVERABLES

- 2.1 Food Services shall include Vegetarian only, Heart Healthy, Fresh from Florida, and general menu items.
- 2.2 Food selection shall include choice offerings in line with the currently established USDA recommendations: <https://health.gov/dietaryguidelines/>
- 2.3 Alcoholic beverages are prohibited.
- 2.4 The Contractor shall provide full service cafeteria operations consisting of the following:
 - Cafeteria style hot and cold breakfast
 - Cafeteria style hot and cold lunch
 - Snacks
 - Beverages
- 2.5 The Contractor shall provide Snack Bar operations consisting of the following:
 - Snack bar style hot and cold breakfast
 - Snack bar style hot and cold lunch
 - Snacks
 - Beverages
- 2.6 **Minimal Operating Requirements**
 - 2.6.1 All sites, at a minimum, shall be open from 7:00 a.m. - 3:30 p.m., Monday through Friday, except for State of Florida observed holidays. For any deviation in operating hours, Contractor must obtain pre-approval, in writing, by the Department's Contract Manager, five (5) business days in advance.

- 2.6.2** The Contractor's advertising, including online, brochures, signs, and other forms of advertisement, shall be subject to the Department's approval. The Department shall have the right to require removal of all or part of any advertising the Department deems inappropriate or reflects poorly on the Department or the State of Florida.
- 2.6.3** The Contractor shall provide adequate staffing and oversight to operate the services authorized in the Contract. The Contractor's staff shall wear appropriate clothing, Department-issued security access ID badges, and nametags at all times.
- 2.6.4** The Contractor shall obtain and maintain all necessary Permanent Food Service (seating and non-seating) licenses from the Florida Department of Business and Professional Regulation (DBPR) through the term of the Contract. A copy of these licenses shall be sent to the Department's Contract Manager prior to commencement of services.
- 2.6.5** All paper products and serving containers shall contain post-consumer recycled content. Styrofoam serving containers are prohibited.
- 2.6.6** The Contractor shall ensure that all employees maintain an appropriate level of customer service to all State staff and visitors.

2.7 Menu Offerings

The Contractor shall, at a minimum:

- 2.7.1** Include Fresh from Florida orange juice in its menu.
- 2.7.2** Include other Fresh from Florida fruit and vegetables in its menu, as available.
- 2.7.3** Offer alternative menu items such as vegetarian, heart healthy and gluten-free options.

2.8 Catering

- 2.8.1** The Contractor may provide catering upon request to the Capitol and Department of Revenue, Building 2.
- 2.8.2** Daily menu items shall be included as catered options but alternative menus may be negotiated.

2.9 Seasonal Menus

- 2.9.1** The Contractor shall provide Seasonal Menus that shall be served during the State of Florida's legislative session.
- 2.9.2** The first season generally commences in September during committee weeks and ends in May.
- 2.9.3** The second season generally commences in June and ends in August.

2.9.4 The Florida Legislature sets the schedule for legislative session each year and the Contractor must be flexible in its ability to provide Seasonal Menus based on this schedule. Seasonal Menus must be approved on an annual basis by the Department's Contract Manager and shall include a schedule for the Seasonal Menu.

2.10 Contractor Responsibilities

2.10.1 Janitorial Services:

The Contractor shall be responsible for the janitorial services necessary to maintain a clean and sanitary area at all times. This requirement is for the food services and dining areas in each location. In sites where restroom facilities are within the cafeteria space, the Contractor will be responsible for the cleaning of the restroom facilities throughout the day and providing the necessary supplies to ensure a clean and adequately stocked facility at all times.

2.10.2 Pest Control Services

2.10.2.1 The Contractor shall contract for pest control services to be performed on a regular schedule at its own expense.

2.10.2.2 The Contractor shall be responsible for providing additional pest control services if an infestation occurs until the infestation is eliminated. Additional pest control services shall be at the Contractor's sole cost and expense.

2.10.3 Floors

2.10.3.1 The Contractor shall perform a deep clean on hard surface floors and carpeted surfaces as needed, but no less than quarterly.

2.10.3.2 The Contractor must receive approval by the Department's Facility Manager prior to use of carpet cleaning equipment.

2.10.4 Other Contractor Responsibilities

2.10.4.1 At times, provide food to visiting school children at the Capitol cafeteria and café. As such, the Contractor shall offer a selection of food free from common allergens, including peanuts, tree nuts, milk, soy, shellfish, fish, and wheat, and shall ensure the food is free from potential cross-contamination.

2.10.4.2 Not preclude State of Florida staff or visitors from using alternate sources of food, such as bringing their own food or having events catered, should they so desire.

2.10.4.3 Meet all applicable Health Codes and Standards for Concession Food Service (Rule 7C-4.019, Florida Administrative Code). For more information, please visit the website: www.flrules.org

- 2.10.4.4** Meet inspection standards set by DBPR's routine food inspections and the Fire Marshal and correct any cited violation in a timely manner and prior to the next routine inspection. For more information, please visit the website: www.myfloridalicense.com/dbpr/index.html

2.11 Equipment

- 2.11.1** The Contractor shall be responsible for the acquisition and maintenance of all food service equipment not provided by the Department.
- 2.11.2** The Contractor shall be responsible for providing all dining room furniture in those sites where no furniture currently exists.
- 2.11.3** Maintenance of all equipment and furniture not owned by the Department shall be the Contractor's responsibility.

SECTION 3. DEPARTMENT'S RESPONSIBILITIES

3.1 Utilities

The Department shall provide utilities at each site for use by the Contractor.

3.2 HVAC

The Department shall provide building HVAC for each site during normal working hours.

3.3 Interior Maintenance

The Department shall provide interior finish upgrades such as painting and carpeting on an as-needed basis, provided any damage to the interior finishes is not due to the Contractor's neglect or action.

3.4 Food Preparation

In the event the Contractor chooses to prepare food off-site and transport it to the proposed sites, an operational plan must be submitted on how food service requirements will be met.

3.5 Equipment

3.5.1 The Department is responsible for the maintenance and inspections of any Department-owned equipment.

3.5.2 If the Department's property and/or equipment is damaged by the Contractor's employees, the Contractor shall submit a detailed report of the facts surrounding the damage and describe the extent of such damage to the Facility Manager and the Department's Contract Manager within twenty-four (24) hours of occurrence. All damage shall be repaired by the Contractor to the Department's satisfaction, or replaced with like product. All repairs must be pre-approved in writing by the Department.

3.5.3 Anticipated equipment provided on site by the Department:

The Capitol Building

- 2 Imperial Elite 40 pound Electric Floor Model Fryers
- 1 Star Star-Max 36 inch Electric Charbroiler
- 1 SteamCub Electric Countertop Steamer
- 1 Scotsman 536 pound Ice Bin
- 1 Scotsman Prodigy Ice Machine
- 1 Globe C10 Economy Manual Slicer
- 1 Vulcan 60 inch Electric Restaurant Range
- 1 Mobile Non-Insulated Proof/Hot Cabinet
- 1 Structural Concepts Encore Service/Self-Service Combo Merchandiser
- 1 74 inch long Service Refrigerated Bakery Merchandiser
- 1 True 19 cubic foot Single Door Freezer
- 1 True 23 cubic foot Reach In Solid Door Refrigerator
- 1 True 35 cubic foot Double 10 Solid Freezer
- 1 True 49 cubic foot Two Sec. S/S Refrigerator

Department of Revenue Building 2

- 1 Ultra Food Bar

The equipment listed above is subject to change and is not guaranteed by the Department to be on site when the Contractor commences service. The Contractor is solely responsible for equipment inventory and determining what additional equipment is necessary for daily food service operations.

3.6 Performance Review

The Department will conduct, at a minimum, a semi-annual performance review with the Contractor to ensure that the Contractor is adhering to all contractual responsibilities and meeting all quality requirements. Customer surveys may be used as a part of this review.

SECTION 4. MENU CHANGE(S) / ECONOMIC PRICE ADJUSTMENT(S)

Any requests to change menu items, including price, must be submitted in writing to the Department and approved by the Contract Manager prior to implementing the changes or increases. Contract price adjustments applicable for each contract renewal period will be based on increases or decreases in the annual average percent changes to the Food and Beverage, Transportation, and Services indexes found in Table 1 - Consumer Price Index for all Urban Consumers (CPI-U); and the Service Occupations index found in the Employment Cost Index (ECI) - Occupational Group; using the following formulas:

The Breakfast, Cold Breakfast, Cold Lunch, Supplemental Foods/Beverages, and Fresh Food Box prices will be adjusted as follows:

- The sum of the following equation:

(Eighty-five percent (85%) of the current meal price) multiplied by (the annual average percent change for the previous twelve (12) months in CPI-U Food and Beverages index);

- added to the sum of the following equation:

(Fifteen percent (15%) of the current meal price) multiplied by (the annual average percent change for the previous twelve (12) months in ECI-Occupational Group, Service Occupations index).

For example: If the annual average percent change for the previous twelve (12) months to the CPI-U for Food & Beverages index = 1.9%; and the annual average percent change for the previous twelve (12) months to ECI-Occupational Group for Service Occupations index = 3.1% with a current meal rate of \$15.00, the following increases would apply.

$$(\$15.00 \times .85) \times 0.019 = \$0.24$$

$$(\$15.00 \times .15) \times 0.031 = \$0.07$$

$$\$0.24 + \$0.07 = \$0.31$$

$$\text{New adjusted rate: } \$15.00 + \$0.31 = \$15.31$$

SECTION 5. ACCOUNTING

5.1 Accounting requirements shall be as follows:

5.1.1 Minimum accounting requirements including subcontractors and audit.

The Contractor shall establish and maintain books, records, and documents directly pertinent to performance under this Contract in accordance with Generally Accepted Accounting Principles (GAAP). The Department, and other appropriate government agencies, or their authorized representatives, as provided by law, shall have access to all such records for audit purposes during the term of the Contract and for five (5) years following the Contract's expiration or termination. Audits shall be conducted at locations and at a frequency determined by the Department or other state agency and communicated to the Contractor. The Contractor shall provide materials for the audit at the designated place within fifteen (15) calendar days after the Department's or other government agency's notice is received. In addition, the Department may require the Contractor to procure an annual financial audit of the Contractor's operations conducted by a Certified Public Accountant, at the Contractor's sole cost and expense. If requested, the Contractor agrees that such audit shall be conducted in accordance with generally accepted auditing and accounting principles and shall be completed within a reasonable timeframe, which shall not be set at less than sixty (60) calendar days by the Department.

5.1.2 Monthly report of Gross Sales.

The Contractor shall provide a monthly report of the Contractor's Gross Sales to the Department. The statement shall contain the total Gross Sales for the previous calendar month by point of sale and shall be delivered to the Department's Contract Manager no later than the twentieth (20th) day of the following month.

5.1.3 Annual Profit and Loss Statement.

The Contractor shall provide an Annual Profit and Loss Statement to the Department for the Contractor's operations pursuant to the Contract for each calendar year, or portion thereof, that the Contract is in effect. The statement shall be submitted to the Department's Contract Manager no later than April 30th of the following calendar year, or within ninety (90) days of the expiration or termination of the Contract, whichever is sooner.

5.1.4 Books of Original Entry.

Both the monthly report of Gross Sales and the Annual Profit and Loss Statement shall be based on source documents and books of original entry. The Contractor shall retain books of original entry and source documents for the duration of the Contract term and for five (5) years after the expiration thereof, or until final resolution of matters resulting from any litigation, claim, or audit that started prior to the expiration of the five (5) year retention period, whichever is later. The retention period commences from the date of submission of the Annual Profit and Loss Statement required above.

5.1.5 Revenue subject to sales tax.

The Contractor's revenue is subject to State Use Tax unless the Contractor is exempt from paying such tax on any fees to the Department. If it is tax exempt, the Contractor shall provide verification of its tax-exempt status according to the State Use Tax Exempt Certification, with the executed Contract.

5.1.6 Purchasing Card Industry Data Security Standards ("PCI DSS").

The Contractor shall be responsible for complying with the PCI DSS that includes a set of comprehensive requirements for enhancing payment account data security, at the Contractor's sole cost and expense. The PCI DSS standards can be found at the PCI Security Standards Council website, <https://www.pcisecuritystandards.org/>. Additional information can be obtained through the Florida Department of Financial Services (DFS), which coordinates the State of Florida's efforts directly with the PCI Security Standards Council. The Contractor shall ensure that the required data security measures are in place no later than sixty (60) days after the execution of the Contract or prior to the commencement of operations, whichever is sooner, by submitting a completed Self-Assessment Questionnaire (SAO) to the Department's Contract Manager. The Contractor shall submit an updated SAO to the Department's Contract Manager annually on the anniversary of the commencement date through the expiration or termination of the Contract. The SAO can be found on the PCI DSS

website listed above. During the term of the Contract, it shall be the Contractor's responsibility to be aware of any subsequent version, modification, amendment or update of the PCI DSS, and, if necessary, to modify its annual SAO as it pertains to its operations under the Contract, at the Contractor's sole cost and expense, in order to maintain compliance with the PCI DSS.

SECTION 6. PERFORMANCE MEASURES

Performance Measures	Financial Consequences
Hours of Operation: All sites, at a minimum, must be open from 7:00 a.m. - 3:30 p.m., Eastern Time, Monday through Friday, except for State of Florida observed holidays and as permitted by section 2.6.1.	<p>\$50.00 per instance of the Contractor failing to be open for business during the minimum number of hours of operation.</p> <p>\$50.00 per instance of the Contractor opening beyond the minimum hours without gaining approval in writing from the Department's Contract Manager. This shall not be applied if the breach is less than thirty (30) minutes.</p>
The Contractor shall provide all menu items marked as mandatory by the Department at all times, unless prior written approval is received by the Department's Contract Manager.	\$50.00 per instance of the Contractor failing to provide mandatory menu items unless prior written approval is received by the Department's Contract Manager.
The Contractor shall only provide menu items approved by the Department at all times, unless prior written approval is received by the Department's Contract Manager.	\$50.00 per instance of the Contractor selling unapproved menu items. "Per instance" shall mean per notification to the Contractor, not each individual unapproved item sold.
The Contractor shall only charge the pricing on the approved menu, or as amended by Attachment A, Section 4 – Menu Change(s) / Economic Price Adjustment(s).	\$50.00 per instance of the Contractor failing to adhere to agreed menu pricing. "Per instance" shall mean per notification to the Contractor, not each individual item sold above the agreed pricing.
The Contractor shall obtain and maintain all necessary Permanent Food Service (seating and non-seating) licenses from DBPR through the term of the Contract.	Contract suspension and \$100.00 for the first day and \$25.00 for each day after until licenses obtained.

Performance Measures	Financial Consequences
<p>The Contractor shall meet inspection standards set by DBPR Routine Food Inspections.</p>	<p>Instances of DBPR inspection results and dispositions shall result in the following financial consequences:</p> <p>Met Inspection Standards - \$0.00</p> <p>Follow-Up Inspection Required - \$50.00 to \$1,000.00 depending on the severity of the violation.</p> <p>Facility Temporarily Closed - \$500.00 plus another \$50.00 per day until the facility is re-opened.</p>
<p>The Contractor shall provide to the Department a monthly report of the Contractor's Gross Sales. The statement shall contain the total Gross Sales for the previous calendar month by point of sale and shall be delivered to the Department's Contract Manager no later than the twentieth (20th) day of the following month.</p>	<p>Contract suspension. The Contractor shall not provide food services under the Contract until the monthly report is received by the Department.</p>
<p>The Contractor shall provide an Annual Profit and Loss Statement to the Department, for its operations pursuant to this Contract for each calendar year or portion thereof that this Contract is in effect. The statement shall be delivered to or sent so that it is received by, the Department's Contract Manager no later than April 30th of the following calendar year, or within ninety (90) days of the expiration or termination of the Contract, whichever is sooner.</p>	<p>Contract suspension. The Contractor shall not provide food services under the Contract until the Annual Profit and Loss Statement is received by the Department.</p>
<p>The Contractor shall retain books of original entry and source documents for the duration of the Contract term and for five (5) years after the expiration thereof, or until final resolution of matters resulting from any litigation, claim, or audit that started prior to the expiration of the five (5) year retention period, whichever is later.</p>	<p>Contract suspension. The Contractor shall not provide food services under the Contract if the Department finds required documents are not being retained.</p>
<p>The Contractor shall be responsible for complying with the PCI DSS, which includes a set of comprehensive requirements for enhancing payment account data security, at the Contractor's sole cost and expense.</p>	<p>Contract suspension. The Contractor shall not provide food services under the Contract if the Contractor fails to comply with the PCI DSS.</p>

SECTION 7. ADDITIONS/DELETIONS

During the term of the Contract, the Department shall have the right to add and/or delete products or food items upon mutual written agreement of both parties.

SECTION 8. TRANSITION PLAN

Within ten (10) working days after Contract execution, the Contract Manager shall conduct a kick-off meeting and/or conference call with the Contractor to discuss the Statement of Work and services needed.

SECTION 9. SPECIAL CONDITIONS

This section serves in conjunction with Form PUR 1000 General Contract Conditions, included by reference.

9.1 Inspection and Acceptance

Inspection and acceptance shall be at destination unless otherwise provided. For Contractor-installed products, the date of acceptance is the date the Department accepts the product as installed and in good working order, as determined by any appropriate acceptance testing, and the Department shall certify in writing to the Contractor when the product is accepted (if training or other post-installation services are included in the purchase order, the acceptance shall be conditional). For Department-installed products, the date of acceptance shall be the delivery date. Mere acknowledgement by Department personnel of the delivery or receipt of products (e.g., a signed bill of lading) shall not be deemed or construed as acceptance of the products received. 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 Department shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damage to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. Any delivery that is substandard or does not comply with the Contract terms may be rejected or accepted on an adjusted price basis, as determined by the Department. When the Department rejects a product, Contractor shall remove it from the premises within ten (10) business days after notification of 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 (10) business days shall be deemed abandoned by the Contractor, and the Department shall have the right to dispose of it as its own property. Contractor shall reimburse the Department for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

9.2 Compliance with Laws

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes, and Chapter 60A-1 of the Florida Administrative Code, governs the Contract. By way of further non-exhaustive example, the Contractor shall comply with Section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Contract termination.

9.3 Warranty

Contractor warrants that all products furnished under the Contract shall be free of defective material and workmanship, and shall otherwise perform in accordance with required performance criteria, for a period of not less than one (1) year from date of acceptance. Warranty repairs shall be completed within the time specified in any support level requirements. If it is likely that the time for repairs will exceed the specified time, the Contractor shall provide equivalent loaner equipment upon request. Loaner equipment shall be provided at no cost, including shipment to the Department's location and return of loaner equipment to the Contractor.

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ATTACHMENT B

CONTRACT DOCUMENT

FOR

FOOD SERVICES

CONTRACT NO.: DMS-18/19-020

BETWEEN

THE STATE OF FLORIDA

DEPARTMENT OF MANAGEMENT SERVICES

AND

<<PARTY NAME>>

DRY

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Contract

This Contract is between the STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES (Department), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and {Insert Vendor Name} (Contractor) with offices at {Insert Contractor Address}, each a “Party” and collectively referred to herein as “Parties”.

The Parties enter into this Contract in accordance with the terms and conditions of solicitation, ITN No.: DMS-18/19-020, Food Services.

The Parties therefore agree as follows.

SECTION 1. DEFINITIONS

The following definitions apply in addition to the definitions in the PUR 1000 form.

- 1.1 Confidential Information: Any portion of a Contractor’s documents, data or records disclosed relating to its response that the Contractor claims is confidential and not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution, or any other authority and is clearly marked “Confidential.”
- 1.2 Contract Manager: The representative designated by the Department who will oversee all aspects of the Contract, monitor performance expectations, and serve as the primary point of contact for the Contractor.
- 1.3 Effective Date: The date services will begin.
- 1.4 Execution Date: The date the Contract is fully signed by all Parties.

SECTION 2. TERM

2.1 Initial Term

The initial term of the Contract will be for five (5) years. The Contract Execution Date will be prior to TBD and the Contract Effective Date will be TBD.

2.2 Renewal Term

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part, for renewal terms up to five (5) years. The Contract may only be renewed in accordance with section 287.057(13), Florida Statutes. Any renewals shall be contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds.

SECTION 3. MENU PRICING AND PAYMENTS

3.1 Menu Pricing

The Contractor shall adhere to the menu prices as stated in Attachment C – Menu(s), which is incorporated by reference into the Contract.

3.2 Price Adjustments

The Contractor shall adhere to price adjustment guidelines as stated in Attachment A - Statement of Work, Section 4., Menu Change(s) / Economic Price Adjustment(s).

3.3 Bills for Travel

Payment by the Department to the Contractor for travel is not permitted in this Contract.

3.4 Transaction Fees

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, Florida Administrative Code, or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees, when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

SECTION 4. CONTRACT DOCUMENTS & HIERARCHY

This Contract sets forth the entire understanding of the Parties and consists of the documents listed below. In the event any of these documents conflict, the conflict will be resolved in the following order of priority (highest to lowest):

- 4.1 This Contract document;
- 4.2 Attachment A – Statement of Work;
- 4.3 Attachment C – Menu(s);
- 4.4 Attachment D – Request for Best and Final Offer to ITN No. DMS-18/19-020;
- 4.5 Attachment E – Contractor’s Best and Final Offer to ITN No. DMS-18/19-020;
- 4.6 Attachment F – ITN No. DMS-18/19-020, and all addenda in reverse order of issuance;
- 4.7 Form PUR 1000, incorporated herein by reference.
http://www.dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms.

SECTION 5. CONTRACT ADMINISTRATION

5.1 Department Contract Administrator

The Contract Administrator whose responsibilities will be to maintain this Contract is:

Caitlen Boles
Departmental Purchasing
Florida Department of Management Services

4050 Esplanade Way, Suite 335
Tallahassee, Florida 32399-0950
Telephone: (850) 410-1423
Email: caitlen.boles@dms.myflorida.com

In the event that the Department changes the Contract Administrator, the Department will notify the Contractor in writing via email. Such changes do not require a formal written amendment to the Contract.

5.2 Contract Manager

The Contract Manager who is primarily responsible for overseeing the Contractor's performance of its duties and obligations pursuant to the terms of this Contract is:

Nick Mayernick
Contract Manager
Division of Real Estate Development and Management
Florida Department of Management Services
4050 Esplanade Way, Suite 315
Tallahassee, Florida 32399-0950
Telephone: (850) 487-4397
Email: nick.mayernick@dms.myflorida.com

In the event that the Department changes the Contract Manager, the Department will notify the Contractor in writing via email. Such changes do not require a formal written amendment to the Contract.

5.3 Contractor Representative

The Contractor's employee who is primarily responsible for overseeing the Contractor's performance of its duties and obligations pursuant to the terms of this Contract is:

Jane Doe
<Insert vendor name>
<Insert vendor physical address>
Telephone: (XXX) XXX-XXXX
Email: jane.doe@xxxxxx.com

In the event that the Contractor changes the Contractor Representative, the Contractor will notify the Department in writing via email. Such changes do not require a formal written amendment to the Contract.

5.4 Diversity Reporting

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority, women, and veteran business enterprises in the economic life of the State. The Department encourages supplier diversity through certification of business enterprises, advocacy and outreach and Business Match Maker events. For additional information, please contact the Office of Supplier Diversity at (850) 487-0915 or osdhelp@dms.myflorida.com.

SECTION 6. COMPLIANCE WITH LAWS

6.1 Compliance

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. Chapter 287, Florida Statutes, and Rule 60A, Florida Administrative Code, govern the Contract. The Contractor shall comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, and all legal prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status or veteran's status. Violation of any laws, rules, codes, ordinances, or licensing requirements shall be grounds for Contract termination or non-renewal of the Contract.

6.2 Notice of Legal Actions

The Contractor shall notify the Department of any legal actions filed against it for a violation of any laws, rules, codes, ordinances, or licensing requirements within thirty (30) days of the action being filed. The Contractor shall notify the Department of any legal actions filed against it for a breach of a contract of similar size and scope to this Contract within thirty (30) days of the action being filed. Failure to notify the Department of a legal action within thirty (30) days of the action shall be grounds for termination or nonrenewal of the Contract.

6.3 Convicted and Discriminatory Vendors

Pursuant to sections 287.133 and 287.134, Florida Statutes, the following restrictions are placed on the ability of persons placed on the convicted vendor list or the discriminatory vendor list.

6.3.1 Convicted Vendors

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two for a period of 36 months following the date of being placed on the convicted vendor list.

6.3.2 Discriminatory Vendors

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

The Contractor shall notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Contract.

6.3.3. Cooperation with the Inspector General

Pursuant to section 20.055(5), Florida Statutes, the Contractor and any subcontractors understand and will comply with their duty to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

SECTION 7. DEPARTMENT OF STATE, CORPORATE STATUS CERTIFICATE

The Contractor and any subcontractors that assert corporate status must provide the Department conclusive evidence, per section 607.0127, Florida Statutes, of a certificate of status if a Florida corporation, or of a certificate of authorization if a foreign corporation obtained from the Florida Department of State per section 607.0128, Florida Statutes, not subject to any qualification stated in the certificate, and maintain such status through the life of the Contract.

SECTION 8. LIABILITY AND WORKERS' COMPENSATION INSURANCE

This paragraph modifies section 35, of the PUR 1000 form. 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, which, at a minimum, shall be as follows: workers' compensation and employer's liability insurance per Florida statutory limits (currently \$200,000 per accident, \$200,000 per person and \$500,000 policy aggregate) covering all employees engaged in any Contract work; commercial general liability coverage on an occurrence basis in the minimum amount of \$500,000 (defense cost shall be in excess of the limit of liability), naming the State as an additional insured; and automobile liability insurance covering all vehicles, owned or otherwise, used in the Contract work, with minimum combined limits of \$500,000, including hired and non-owned liability and \$5,000 medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor and is of the essence of the Contract. The Contract shall not limit the types of insurance Contractor may desire to obtain or be required to obtain by law. 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 to write policies in the State of Florida.

The Contractor shall provide a copy of its certificate to the Contract Manager and ensure its insurance carrier notes the Department as the certificate holder as provided below:

Florida Department of Management Services
Division of Real Estate Development and Management
c/o Departmental Purchasing
4050 Esplanade Way, Suite 335
Tallahassee, Florida 32399-0950

SECTION 9. PUBLIC RECORDS

9.1 Access to Public Records

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing 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 section 24(a) of Article I of the State Constitution and section 119.07(1), Florida Statutes.

9.2 Redacted Copies of Confidential Information

If the Contractor considers any portion of any documents, data, or records submitted to the Department to be confidential, proprietary, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the information it claims as Confidential and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Contract name and number, and shall be clearly titled "Confidential." The redacted copy should only redact those portions of material that the Contractor claims is confidential, proprietary, trade secret or otherwise not subject to disclosure.

9.3 Request for Redacted Information

In the event of a public records or other disclosure request pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents that are marked as "Confidential" are responsive, the Department will provide the Contractor-redacted copies to the requestor. If a requestor asserts a right to the Confidential Information, the Department will notify the Contractor such an assertion has been made. It is the Contractor's responsibility to assert that the information in question is exempt from disclosure under Chapter 119, Florida Statutes, or other applicable law. If the Department becomes subject to a demand for discovery or disclosure of the Confidential Information of the Contractor under legal process, the Department shall give the Contractor prompt notice of the demand prior to releasing the information labeled "Confidential" (unless otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

9.4 Indemnification

The Contractor shall protect, defend, and indemnify the Department for any and all claims arising from or relating to the Contractor's determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If the Contractor fails to submit a redacted copy of information it claims is Confidential, the Department is authorized to produce the entire documents, data, or records submitted to the Department in answer to a public records request or other lawful request for these records.

9.5 Contractor as Agent

Solely for the purposes of this section, the Contract Manager is the agency custodian of public records. If, under this Contract, the Contractor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes, the Contractor shall:

9.5.1 Keep and maintain public records required by the public agency to perform the service.

9.5.2 Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

- 9.5.3** Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
- 9.5.4** Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- 9.5.5 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED FOR THE CONTRACT MANAGER.**

SECTION 10. INTELLECTUAL PROPERTY

The Parties do not anticipate that any intellectual property will be developed as a result of this Contract. However, any intellectual property developed as a result of this Contract will belong to, and be the sole property of, the state. This provision will survive the termination or expiration of this Contract.

SECTION 11. E-VERIFY

The Contractor is required to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system to verify the employment of all new employees hired by the Contractor during the Contract term. Also, the Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the Contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term.

In order to implement this provision, the Contractor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five (5) days of Contract execution.

If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five (5) days of Contract execution. The link to E-Verify is provided below.

<http://www.uscis.gov/e-verify>

Upon each Contractor or subcontractor new hire, the Contractor shall provide a statement within five (5) days to the Contract Manager identifying the new hire with its E-Verify case number.

SECTION 12. SCRUTINIZED COMPANIES – TERMINATION BY THE DEPARTMENT

The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

SECTION 13. GEOGRAPHIC LOCATION OF DATA AND SERVICES

The State of Florida requires that all data generated, used or stored by the Contractor pursuant to the Contract will reside and remain in the United States and will not be transferred outside of the United States. The State of Florida also requires that all services provided under the Contract, including call center or other help services, will be performed by persons located in the United States.

SECTION 14. RECORDS RETENTION

The Contractor shall retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. The Contractor shall retain all documents related to this Contract in compliance with the rules of the Florida Department of State.

SECTION 15. GIFTS

The Contractor agrees that it will not offer to give or give any gift to any State of Florida employee. This Contractor will ensure that its subcontractors, if any, will apply with this provision.

SECTION 16. VENDOR OMBUDSMAN

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, Florida Statutes, which include disseminating information relative to prompt payment and assisting vendors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

SECTION 17. MONITORING BY THE DEPARTMENT

The Contractor shall permit all persons who are duly authorized by the Department to inspect and copy any records, papers, documents, facilities, goods and services of the Contractor that are relevant to this Contract and to interview clients, employees and subcontractor employees of the Contractor to assure the Department of satisfactory performance of the terms and conditions of this Contract. Following such review, the Department may deliver to the Contractor a written report of its finding(s) and direct the development, by the Contractor, of a corrective action plan. This provision will not limit the Department's termination rights.

SECTION 18. AUDITS

The Department may conduct or have conducted performance and/or compliance audits of any and all areas of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract Services. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon 15 days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

SECTION 19. BACKGROUND SCREENING, RECORD RETENTION, AND WARRANT OF SECURITY

All of the Contractor's employees, subcontractors and agents performing work under the Contract must comply with all security and administrative requirements of the Department.

19.1 Background Screening

In addition to any background screening required by the Contractor as a condition of employment, the Contractor warrants that it will conduct a criminal background screening of, or ensure that such a screening is conducted for, each of its employees, subcontractor personnel, independent contractors, leased employees, volunteers, licensees or other person, hereinafter referred to as "Person" or "Persons," operating under its direction who directly perform services under the Contract, whether or not the Person has Access to State of Florida Data, as well as those who have access, including indirect access, to State of Florida Data, whether or not they perform services under the Contract. The Contractor warrants that all Persons will have passed the Background Screening described herein before they have Access to Data or begin performing services under the Contract. The look-back period for such background screenings shall be for a minimum of seven (7) years where seven (7) years of historical information is available.

"Access" means to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer system or network includes local and remote access.

"Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions, whether it is exempt, confidential, or personal health information. Data may be in any form, including but not limited to, storage media, computer memory, in transit, presented on a display device, or in physical media such as paper, film, microfilm, or microfiche. Data includes the original form of the Data and all metadata associated with the Data.

The minimum background check process will include a check of the following databases through a law enforcement agency or a Professional Background Screener accredited by the National Association of Professional Background Screeners or a comparable standard:

- Social Security Number Trace; and
- Criminal Records (Federal, State and County criminal felony and misdemeanor, national criminal database for all states which make such data available).

The Contractor agrees that each Person will be screened as a prior condition for performing services or having access to State of Florida Data. The Contractor is responsible for any and all costs and expenses in obtaining and maintaining the criminal background screening information for each Person described above. The Contractor will maintain documentation of the screening in the Person's employment file. The Contractor will abide by all applicable laws, rules, and regulations including, but not limited to the Fair Credit Reporting Act and/or any equal opportunity laws, rules, regulations, or ordinances.

19.1.1 In addition to the background screening requirements described above, the Contractor's on-site Capitol Building employees shall be required to submit to additional background screening requirements by the Capitol Police. Access badges will be issued by Capitol Police after confirming the individual passed the additional background screening requirements.

19.2 Disqualifying Offenses

If at any time it is determined that a Person has a criminal misdemeanor or felony record regardless of adjudication (e.g., adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) within the last seven (7) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that Person from any position with Access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are crimes where the nature of the criminal activity is such that a reasonable person would agree that the Person's employment would create a risk of injury, loss, or damage to people and/or property of any State of Florida premises. Examples of these types of crimes include but may not be limited to the following:

- Computer related or information technology crimes
- Fraudulent practices, false pretenses and frauds, and credit card crimes
- Forgery and counterfeiting
- Violations involving checks and drafts
- Misuse of medical or personnel records
- Felony theft
- Murder/Manslaughter
- Petit Theft
- Burglary/Robbery
- Aggravated Assault
- Sexual Battery
- Kidnapping/False Imprisonment

If the Contractor finds a Disqualifying Offense for a Person within the last seven (7) years from the date of the court's disposition, it may obtain information regarding the incident and determine whether that Person should continue providing services under the Contract or have access to State of Florida Data. The Contractor will consider the following factors only in making the determination: i.) nature and gravity of the offense, ii.) the amount of time that lapsed since the offense, iii.) the rehabilitation efforts of the person, and iv.) relevancy of the offense to the job duties of the Person. If the Contractor determines that the Person should be allowed access to State of Florida Data, then the Contractor shall maintain all criminal background screening information and the rationale for such access in the Person's employment file.

19.3 Refresh Screening

The Contractor will ensure that all background screening will be refreshed every five (5) years from the time initially performed for each Person during the term of the Contract.

19.4 Warrant of Security

“Warrant of Security” means a written document signed by the Contractor and submitted to the Department’s Contract Manager in which the Contractor includes:

- The name of each individual or Person subject to a criminal background screening under the Contract, and the date of his or her most recent criminal background screening; and
- A statement confirming that the criminal background screening did not identify a disqualifying offense; or
- Notwithstanding the criminal background screening identifying a disqualifying offense, the individual was permitted to become a Person performing services by the Contractor as supported by an analysis using only the factors in subsection 19.2.

No Warrant of Security shall include the substance of criminal background screening results or any subsequent analysis.

19.4.1 Initial Warrant of Security

The Contractor will submit an Initial Warrant of Security before services are delivered under this Contract.

19.4.2 Annual Warrant of Security

The Contractor will submit a Warrant of Security to the Contract Manager by December 31st of each Contract year.

19.4.3 Supplemental Warrant of Security

The Contractor will submit a supplemental Warrant of Security to the Contract Manager before any individual subsequently hired by the Contractor, and becomes a Person, delivers services under this Contract.

19.5 Self-Disclosure

The Contractor shall ensure that all Persons have a responsibility to self-report within three (3) calendar days to the Contractor any updated court disposition regarding any disqualifying offense, regardless of adjudication (adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict). The Contractor shall immediately reassess whether to disallow that Person access to any State of Florida premises or from directly performing services under the Contract. Additionally, the Contractor shall require that the Person complete an annual certification that they have not received any additional criminal misdemeanor or felony record regardless of adjudication (adjudication withheld, a plea of guilty or nolo contendere, or a guilty verdict) for the Disqualifying Offenses and shall maintain that certification in the employment file.

In addition, the Contractor shall ensure that all Persons have a responsibility to self-report to the Contractor within three (3) calendar days, any arrest for any Disqualifying Offense. The

Contractor shall notify the Contract Manager within 24 hours of all details concerning any reported arrest.

19.6 Duty to Provide Secure Data

The Contractor will maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such Data or Data that is otherwise visible. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information. Data cannot be disclosed to any person or entity that is not directly approved to participate in the scope of work set forth in this Contract.

19.7 Department's Ability to Audit Screening Compliance and Inspect Locations

The Department reserves the right to audit the Contractor's background screening process upon two (2) days prior written notice to the Contractor during the term of the Contract. The Department will have the right to inspect the Contractor's working area, computer systems, and/or location upon two (2) business days prior written notice to the Contractor to ensure that access to the State of Florida Data is secure and in compliance with the Contract and all applicable state and federal rules and regulations.

19.8 Record Retention

The Contractor shall retain a list of all Persons with Access to Data, including a statement confirming that each Person has passed the Background Screening required herein. Such a statement shall not include the substance of the screening results, only that the Person has passed the screening.

The Contractor shall create a written policy for the protection of Data, including a policy and procedure for Access to Data.

The Contractor shall document and record, with respect to each instance of Access to Data:

- 1) The identity of all individual(s) who accessed Data in any way, whether those individuals are authorized Persons or not;
- 2) The duration of the individual(s)' access to Data, including the time and date at which the access began and ended;
- 3) The identity, form, and extent of Data accessed, including, but not limited to, whether the individual accessed partial or redacted versions of Data, read-only versions of Data, or editable versions of Data; and
- 4) The nature of the access to Data, including whether Data was edited or shared with any other individual or entity during the duration of the access, and, if so, the identity of the individual or entity.

The Contractor shall retain the written policy and information required in this subsection for the duration of this Contract and a period of no less than five (5) years from the date of termination of this Contract and any Contract extensions. The written policy and information required in this subsection shall be included in the Department's audit and screening abilities as defined in subsection 19.3. The written policy and information required in this subsection shall also be subject to immediate disclosure upon written or oral demand at any time by the Department or its designated agents or auditors.

Failure to compile, retain, and disclose the written policy and information as required in this subsection shall be considered a breach of the Contract. The resulting damages to the Department from a breach of this subsection are by their nature impossible to ascertain presently and will be difficult to ascertain in the future. The issues involved in determining such damages will be numerous, complex, and unreasonably burdensome to prove. The Parties acknowledge that these financial consequences are liquidated damages, exclusive of any other right to damages, not intended to be a penalty and solely intended to compensate for unknown and unascertainable damages. The Contractor therefore agrees to credit the Department the sum of \$250.00 for each breach of this subsection.

19.9 Indemnification

The Contractor agrees to defend, indemnify and hold harmless the Department, the State of Florida, its officers, directors and employees for any claims, suits or proceedings related to a breach of this section. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this section for a two (2) year period of time following the breach.

SECTION 20. PERFORMANCE BOND

The Department will not require the Contractor to furnish a performance bond or other form of security for the faithful performance of work under this Contract.

SECTION 21. NO OFFSHORING AFFIDAVIT

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the Services from outside of the United States, and the Contractor will not allow any State of Florida Data to be sent by any medium, transmitted or accessed outside of the United States.

The Contractor agrees that a violation of items listed above will result in immediate and irreparable harm to the Department and will entitle the Department to a credit of \$50,000 per violation, with a total cap of \$500,000 per event. This credit is intended only to cover the Department's internal staffing and administrative costs as well as the diminished value of services provided under the Contract and will not preclude the Department from recovering other damages it may suffer as a result of such violation. For purposes of determining the damages due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity) will be treated as a single event. A violation of this provision will also entitle the Department to recover damages, if any, arising from a breach of this section and constitutes an event of default.

Notwithstanding any provision of this Contract to the contrary, the Contractor shall notify the Department as soon as possible and in all events within one (1) business day in the event it discovers any Data is breached, any unauthorized access of State of Florida Data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of Data or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one employee/retiree or the entire population. The notification shall be clear and conspicuous and include a description of the following:

- (a) The incident in general terms.

- (b) The type of personal information that was subject to the unauthorized access and acquisition.
- (c) The number of individuals who were, or potentially have been affected by the breach.
- (d) The actions taken by the Contractor to protect the Data information from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

Upon becoming aware of an alleged security breach or security incident, the Contractor Security Officer shall set up a conference call with the Department's Contract Manager. The conference call invitation shall contain a brief description of the nature of the event. When possible, a thirty (30) minute notice shall be given to allow Department personnel to be available for the call. If the designated time is not practical for the Department, an alternate time for the call shall be scheduled. All available information shall be shared on the call. The Contractor shall answer all questions based on the information known at that time and shall answer additional questions as additional information becomes known. The Contractor shall provide the Department with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business hours, the Contractor shall notify the Department's Contract Manager and in all events, within one (1) business day.

SECTION 22. MISCELLANEOUS

22.1 Subcontractors

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

22.2 Independent Contractor

The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Department and are not entitled to the benefits of State of Florida employees. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

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