



ADAM H. PUTNAM  
COMMISSIONER

**Submit Bids to:**  
Florida Department of Agriculture and Consumer Services  
407 South Calhoun Street - Mayo Building, Room SB-8  
Tallahassee, FL 32399-0800

**Telephone: (850) 617-7181**

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AGENCY MAILING DATE:

August 10, 2017

BIDS NO. **ITN/DM-17/18-12**

WILL BE OPENED **SEPTEMBER 12, 2017 @ 2:00 P.M.**  
and may not be withdrawn within 90 days after such date and time

NOTICE OF INTENDED AWARD POSTING WILL BE ON OR ABOUT OCTOBER 2, 2017

**BID TITLE: MARKETING, MEDIA PLANNING AND BUYING**

VENDOR NAME

AUTHORIZED SIGNATURE (MANUAL)

VENDOR MAILING ADDRESS

CITY - STATE - ZIP

AUTHORIZED SIGNATURE (TYPED) TITLE

TELEPHONE: ( )

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation firm, or person submitting a proposal for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer and that the Proposer is in compliance with all requirements of the Request for Proposal including but not limited to, certification requirements. In submitting a Proposal to an agency for the State of Florida, the Proposer offers and agrees that if the Proposal is accepted, the Proposer will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the Proposer.

**GENERAL INSTRUCTIONS TO RESPONDENTS**

1. **Definitions.** The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
  - (a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
  - (b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
  - (c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
  - (d) "Response" means the material submitted by the respondent in answering the solicitation.
  - (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.
2. **General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.
- ~~3. **Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:~~
  - an electronic signature on the response, generally,
  - an electronic signature on any form or section specifically calling for a signature, and
  - an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.
4. **Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

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

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

- ~~5. **Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.~~
6. **Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an

interest of five percent (5%) or more in the respondent or its affiliates.

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

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

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

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

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

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

performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

- Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.

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

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

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

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

**12. Public Opening.** Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b),

Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

13. **Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu). If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.
14. **Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.
15. **Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.
16. **Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.
17. **Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.
18. **Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

~~\*\*19. Public Records.~~ Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

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

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

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

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

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

\* **DOES NOT APPLY TO THIS AGENCY. PLEASE REFER TO SUBMISSION INSTRUCTIONS IN THE BID DOCUMENT.**

\*\* **DOES NOT APPLY TO THIS AGENCY. PLEASE REFER TO SPECIAL CONDITIONS IN THE BID DOCUMENT.**

(PUR 1001 - 60A-1.002(7), F.A.C.)

#### GENERAL CONTRACT CONDITIONS

1. **Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
  - (a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
  - (b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.
  - (c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.
  - (d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

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

requests in writing an earlier model or version and the contractor is willing to provide such model or version.

4. **Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.
  - (a) **Quantity Discounts.** Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
  - (b) **Best Pricing Offer.** During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
  - (c) **Sales Promotions.** In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
  - (d) **Trade-In.** Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.
  - (e) **Equitable Adjustment.** The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.
5. **Additional Quantities.** For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.
6. **Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.
7. **Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
8. **Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for

pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

9. **Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
10. **Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
11. **Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.
12. **Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.
13. **Risk of Loss.** Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.
14. **Transaction Fee.** The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

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

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

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

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

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

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

- 16. Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.
- 17. Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.
- 18. Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period

required by the General Records Schedules maintained by the Florida Department of State which is available at the following: <http://dils.dos.state.fl.us/barm/genschedules/gensched.htm>. The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

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

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

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

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

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

- 21. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.
- 22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.
- 23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.
- 24. Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay

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

- 25. Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.
- 26. Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.
- 27. Purchase Order Duration.** Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

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

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

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

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

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

- 28. Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.
- 29. Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.
- 30. Antitrust Assignment.** The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.
- 31. Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

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

- 32. Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.
- 33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the

Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

- 34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.
- 35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.
- 36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
- 37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.
- 38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.
- 39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.
- 41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business

entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

- 42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.
- 43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

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

- 44. Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 45. Annual Appropriations.** The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.
- 46. Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- 47. Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

***\*THIS CONDITION DOES NOT APPLY TO THIS AGENCY.***

**(PUR 1000 - 60A-1.002(7), F.A.C.) 11/06**



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
DIVISION OF MARKETING AND DEVELOPMENT

INVITATION TO NEGOTIATE

MARKETING, CREATIVE SERVICES, MEDIA PLANNING AND BUYING

Proposers should thoroughly read and shall comply with all requirements contained in this Invitation to Negotiate (ITN). Failure to provide all of the forms and information requested shall result in rejection of the proposal as non-responsive.

A. STATEMENT OF NEED

**OVERVIEW**

The Florida Department of Agriculture and Consumer Services (FDACS or Department), Division of Marketing and Development (Division), seeks to enter into a contractual services agreement with a highly-qualified vendor that specializes in marketing, media planning and media buying.

The Department seeks to increase awareness of the "Fresh From Florida" brand to increase sales of Florida agricultural and seafood products and, through these efforts, direct consumers to join a consumer loyalty program focused on the "Fresh From Florida" brand. Measurable results will include: increased brand awareness, sales lift, increased social media engagements and memberships in the consumer loyalty program and contact acquisition.

**Award Amount:**

The maximum amount of the anticipated award for this ITN for 2017/18 is up to \$1,900,000. Of this amount, \$1,000,000 should be allocated for media, with an optional \$900,000 for partnership activations. The Department anticipates funding for subsequent years and reserves the right to negotiate allowable renewals of the contract based on available funding levels and specified contract deliverables.

**BACKGROUND**

Thru Section 570.53(3), Florida Statutes, the Division is tasked with "*Stimulating, encouraging and fostering the production and consumption of agricultural products and conducting activities that may foster a better understanding and more efficient cooperation among producers, buyers, food editors and the consuming public in the promotion and marketing of Florida agricultural products*". The scope of this ITN is one part of the marketing effort to accomplish these goals.

B. SCOPE OF PROJECT

The Department anticipates several marketing campaigns that may utilize one or all of the services below. The vendor selected shall be qualified to provide all of the following services:

- Marketing Plan – Develop a marketing plan to reach the target audience(s) with proposed event activations, media mix, metrics for measuring results.
- Media Planning and Buying – Projects may include, but are not limited to, planning and placing all types of media and marketing activities such as TV, cable, radio, digital, print, social, outdoor, etc.

- Added Value - Added value should be included in the marketing plan.
- Creative Design/Consulting Services - Creative services may be needed to supplement internal creative work provided by the Division. An allowance for these services, up to 60-hours, should be provided. Projects may include, but are not limited to, create and design digital ads, print ads, POP materials, billboards video and webpage design.

### Marketing Plan

The marketing plan should include development of multi-level campaigns utilizing strategic partnerships. The most valuable strategic partnerships are with retailers with the greatest opportunity for product movement. Increased awareness and strength of the "Fresh From Florida" brand is directly aligned with the success of retail campaigns and the sales of Florida agricultural products. Campaigns shall include, but not be limited to, objective measurements that increase sales of Florida agricultural products, loyalty program engagement, lead generations, contact acquisitions, impressions, purchase data and reported sales. Seasonality of Florida agricultural products drive the timing of campaigns within the plan.

### Media Plan

The media plan should promote the sale of agricultural products through awareness and through engagement with the "Fresh From Florida" website and social media pages. The media campaign is used to increase awareness of the "Fresh From Florida" brand to influence purchasing behavior and ultimately drive sales of Fresh From Florida products. For the initial contract year, it is anticipated that digital and social media will be the primary type of media due to budget constraints.

### Timing

Implementation: November – May of each contractual year

### Target Audience

Primary Household Shopper

### Target Markets

- All ten designated market areas (DMAs) in Florida DMAs include: Tampa/St. Petersburg, Miami/Ft. Lauderdale, Orlando/Daytona Beach/Melbourne, Jacksonville, Tallahassee, West Palm Beach/Ft. Pierce, Ft. Myers, Pensacola, Gainesville and Panama City.
- Southeastern United States in conjunction with key retailers.

### Key Performance Indicators

- Brand awareness (pre and post) measured through impressions and ultimately recall analysis.
- Sales lift measured through purchase data, retail campaigns that create assists (circulars ads, sampling events, etc.), competition participation.
- Number of loyalty memberships.
- Number of website visits.
- Number of followers.
- Number of consumer exposures, engagements.

**MINIMUM PROJECT DELIVERABLES**

The following items constitute the project deliverables for each service:

- 1) Marketing Plan
  - a) Marketing Plan - The marketing plan shall include the planned partnerships, media mix, target markets, flights, point levels, impressions and conversions. The marketing plan shall be presented at least one (1) month prior to campaign start date.
  
- 2) Media Planning and Buying
  - a) Media Schedules - Media schedules shall be provided at least one (1) month prior to campaign start date. Schedules shall include dates, times, programs/websites/social media outlets, estimated reach and frequency and television stations (if broadcast) and total rating points or estimated impressions. The Department reserves the right to approve or revise the media schedules as needed.
  - b) Monthly Reports - Monthly reports shall include the status of marketing activities or media buys. Monthly reports shall be submitted electronically by the 15<sup>th</sup> of the following month through salesforce reporting data base.
  - c) Final Report - Three (3) printed written final reports and an electronic version shall be delivered to the Department summarizing all activities, identifying impressions, successes, measurements, added value, evaluating campaign effectiveness using recall and awareness and success reaching KPI's and making recommendations for possible future marketing strategies and efforts. The reports are due no later than 30 days after end of campaign.
  
- 3) Added Value
  - a) Pre-Campaign Added Value Report - The summary of negotiated added value planned for campaigns shall be provided prior to each campaign launch and include a summary of planned added value, dollar value and estimated percentage of overall buys.
  - b) Final Added Value Report - This report shall include a recap of all added value received during the campaign. The report shall include elements provided in each market, the media value of each item, impressions and all backup including images, tear sheets, screen shots, affidavits, DVDs/videos. The final added value report shall be due thirty (30) days after the end of each phase/flight.

**OPTIONAL SCOPE OF PROJECT**

**Partnership Activations**

As an added service, the vendor may choose to provide a plan for partnership activations. Through strategic partnerships, the "Fresh From Florida" brand gains high quality assets that can serve to strengthen the reach of the brand message. Opportunities for the "Fresh From Florida" brand to connect with appropriate partners with similar platforms provides access to loyal customer

bases that can serve to foster loyalty to the “Fresh From Florida” brand and provides the opportunity to develop and deliver well executed promotions with key retailers.

- Develop four major activations during key seasons for Florida produce with key retailers located in the target markets with the greatest opportunity to move/promote “Fresh From Florida” products.

Timing

Implementation: November – May of each contractual year

Target Audience

Primary Household Shopper

Target Markets

- Florida, Southeast US

Key Performance Indicators

- Brand awareness (pre and post) measured through impressions and ultimately recall analysis.
- Sales lift measured through purchase data, retail campaigns that create assists (circulars ads, sampling events, etc.), competition participation.
- Number of loyalty memberships.
- Number of website visits.
- Number of followers.
- Number of consumer exposures, engagements.

**C. GENERAL TERMS AND CONDITIONS**

1. Contract Period

The anticipated contract period is from the date of contract execution through September 30, 2018. All deliverables must be completed and invoiced prior to September 15, 2018.

2. Contract Manager

The contractor will coordinate and schedule all work with the Department’s contract manager, Mindy Lee, Division of Marketing and Development, 407 South Calhoun Street, Tallahassee, Florida 32399.

3. General Information

a. Calendar of Events

Listed below are the important actions and dates/times by which the actions must be taken or completed. If the Department finds it necessary to change any of these fixed dates/times, an addendum will be issued.

Date/Time	Activity
August 10, 2017	ITN advertised and released.
August 24, 2017	Written questions due to Department's purchasing director by 3:00 p.m. Questions can be faxed to (850) 617-7190, or emailed to <a href="mailto:Vianka.Colin@FreshFromFlorida.com">Vianka.Colin@FreshFromFlorida.com</a> . No questions will be received/answered after this date.
August 28, 2017	The Department's written response to any questions received will be posted as an addendum.
<b>September 12, 2017 @ 2:00 p.m.</b>	Proposals must be received by the Department by this date and time. Proposals will be opened at the Department's purchasing office, SB-8, Mayo Building, 407 South Calhoun Street, Tallahassee, Florida, 32399-0800.
September 25, 2017 (on or about)	Presentations in Tallahassee, Florida (if invited).
October 2, 2017 (on or about)	Expected date for posting award notice of Department's contract award recommendations at <a href="http://myflorida.com">http://myflorida.com</a> , click on Business, Doing Business with the State of Florida, Everything for Vendors and Customers, Vendor Bid System, Search Advertisements. Tabulations will remain posted for a period of seventy-two (72) hours.
October 2017	Anticipated contract start date.

b. Contact Persons

Questions regarding proposal procedures shall be directed to:

Vianka Colin, Purchasing Director  
Florida Department of Agriculture and Consumer Services  
407 South Calhoun Street, SB-8  
Tallahassee, Florida 32399-0800  
Telephone: (850) 617-7181  
Facsimile: (850) 617-7190  
Email: [Vianka.Colin@freshfromflorida.com](mailto:Vianka.Colin@freshfromflorida.com)

c. Inquiries, Written Questions and Responses

Only communications from the proposers, which are in writing and signed, shall be recognized by the purchaser as duly authorized expressions on the behalf of the proposers.

**\*\*\*IMPORTANT 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.**

Any response that may impact all proposers' responses shall be brought to the attention of all prospective proposers in the form of a written addendum to this ITN solicitation. The Department will answer questions from prospective proposers. Questions are due to the Department via email at [Vianka.Colin@FreshFromFlorida.com](mailto:Vianka.Colin@FreshFromFlorida.com) or by facsimile at (850) 617-7190, **on or before August 24, 2017**. No questions will be received after this date and time. The Department will post answers to proposer's questions at <http://www.myflorida.com>, click on Business, Doing Business with the State of Florida, Everything for Vendors and Customers, Vendor Bid System, Search Advertisements.

The answers shall be posted as an addendum to the solicitation on **August 28, 2017**. The Department will not accept any revisions or additions to any proposal after the proposal opening date.

d. Acceptance of Proposal

The Department reserves the right to reject any and all proposals or waive minor irregularities when to do so would be in the best interest of the state of Florida. Minor irregularities are those that will not have a significant adverse effect on overall competition, cost or performance. The Department reserves the right to reject the proposal of a proposer who the Department determines is not in a position to perform the contract.

e. Number of Copies Required

One (1) original and five (5) duplicate copies of the proposal must be completed and submitted to the purchasing office in accordance with the proposal deadlines stated herein. The original must contain an original signature of an official of the potential service provider who is authorized to bind the service provider to the proposal (in blue ink).

f. How to Submit a Proposal

Proposals must be submitted in a sealed envelope to the address listed on the proposal form (PUR 1001 and 1000) by the time and date listed on the form. In addition to the address, the face of the envelope shall be marked with the date and time of the proposal opening and the proposal number.

NOTE: Proposals received by the Department after the proposal opening time and date shall be rejected as untimely and shall not be opened. A late proposal notice shall be sent to the proposing firm upon posting of award notice with instructions for its return. Unclaimed late proposals shall be destroyed after forty-five (45) days.

Offers from contractors listed on the Department's posted award notice are the only offers received in accordance with the Department's proposal opening time and date.

g. Notice of Contract Award

Proposed tabulations with recommended award(s) shall be posted on or about the date indicated on the proposal cover sheet for review by interested parties at the location where proposals were opened and shall remain posted for a period of seventy-two (72) hours. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. Failure to file the proper bond at the time of filing the formal protest shall result in denial of the protest.

h. Cost of Preparation

The Department is not liable for any costs incurred by a proposer in response to this ITN, including an any oral presentation.

i. Cancellation of Contract

Any contract resulting from this ITN may be canceled by the Department, in whole or in part, by providing thirty (30) days written notice to the contractor. Failure of contractor to follow the specifications and requirements set forth herein may result in cancellation and default proceeding. Additionally, the state shall have the right of unilateral cancellation for refusal by the contractor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the contractor in conjunction with the contract.

j. Public Records

Proposers are hereby notified that the Florida Public Records Law, Chapter 119, Florida Statutes, as it is interpreted by the Department, applies to written proposals submitted to state executive agencies. Any material submitted in response to this ITN will become a public document pursuant to Section 119.071, Florida Statutes. This includes material that the responding proposer might consider to be confidential or a trade secret. Any claim of confidentiality may be waived upon submission.

k. Public Entity Crimes

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 on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids 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 from the date of being placed on the convicted vendor list.

I. Employment of Unauthorized Aliens

Pursuant to Executive Order 96-236, effective October 1, 1996, the following standard provision shall apply to any contract awarded as a result of this ITN:

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

m. Invoicing and Payment

Invoices must be submitted in triplicate, and in sufficient detail, to allow for a proper pre-audit and post-audit thereof, to Mindy Lee, 407 S. Calhoun St. Tallahassee, FL 32399. The Department will place the invoice in line for payment. Payment shall be made in advance and in accordance with Section 215.422, Florida Statutes, which states the contractor's rights and the state agency's responsibility concerning interest penalties and time limits for payment of invoices (**ATTACHMENT A, NOTIFICATION OF VENDOR OMBUDSMAN'S NAME AND TELEPHONE NUMBER**).

n. Discrimination

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

o. Annual Appropriations

The state of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

p. Insurance Requirements

The contractor shall not commence any work in connection with the project until he has obtained all of the following types of insurance, and the owner has approved such insurance. Nor shall the contractor allow any independent/subcontractor to commence work on his subcontract until all similar insurance required of the independent/subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified to do business in Florida through an authorized licensed Florida Agent.

**CERTIFICATE OF INSURANCE**

The contractor shall furnish proof of insurance coverage within ten (10) calendar days after notification of award and prior to starting the contract.

The contractor shall furnish a Certificate of Insurance for all insurance required by this contract and shall include the state of Florida, Florida Department of Agriculture and Consumer Services, as additional insured. This form(s) shall be completed and



signed by the authorized Licensed Florida Agent and returned to the Florida Department of Agriculture and Consumer Services, Purchasing Office, 407 South Calhoun St., Room SB-8, Mayo Building, Tallahassee, Florida 32399-0800. Certificate(s) shall be dated and show:

1. Name of the insured contractor, specific job by name, name of the insurer, number of the policy, its effective date and its termination date.
2. Statement that the insured will mail notice to the owner, at least thirty (30) calendar days, prior to any material changes in provisions or cancellation of the policy.

**CONTRACTOR'S COMMERCIAL GENERAL LIABILITY INSURANCE**

The contractor shall take out and maintain during the life of the contract:

Minimum Limits of Liability	\$1,000,000 each occurrence
	\$2,000,000 aggregate

Including Bodily Injury, Property Damage and products and completed operations.

**CONTRACTOR'S AUTOMOBILE LIABILITY INSURANCE**

The contractor shall take out and maintain during the life of this agreement Automobile Liability insurance for all claims that may arise from all operations performed under this agreement:

Minimum Limits of Liability	\$300,000 any automobile
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**WORKER'S COMPENSATION INSURANCE**

During the contract term, the contractor, at its sole expense, shall provide commercial insurance such a type and with such terms and limits as may be reasonably associated with the contract, which, as a minimum, shall be workers' compensation and employer's liability insurance in accordance with Chapter 440, Florida Statutes, with minimum employers' liability limits of \$100,000 per accident, \$100,000 per person and \$500,000 policy aggregate. Such policy shall cover all employees engaged in any contract work.

Employers who have employees who are engaged in Florida must use Florida rates, rules and classifications for those employees. In the construction industry, only corporate officers of a corporation or any group of affiliated corporations may elect to be exempt from workers' compensation coverage requirements. Such exemptions are limited to a maximum of three per corporation and each exemption holder must own at least 10% of the corporation. Independent contractors, sole proprietors and partners in the construction industry cannot elect to be exempt and must maintain workers' compensation insurance.

**HOLD HARMLESS AND INDEMNIFY**

The contractor shall hold harmless, and indemnify to the fullest extent permitted by law, the state of Florida, FDACS and/or FDACS employees from and against any and all claims, damages, losses and expenses, including, but not limited to attorneys' fees, arising out of or resulting from performance of the work, provided

that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the contractor, subcontractor(s), anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in the paragraph.

**INSURANCE, LOSS DEDUCTIBLE CLAUSE**

The state of Florida shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the contractor providing such insurance.

**INSURANCE, INDEPENDENT/SUBCONTRACTOR'S COMMERCIAL GENERAL LIABILITY**

The contractor shall require each of his independent or subcontractors to secure and maintain during the life of the subcontract, insurance of the type specified above or insure the activities of his independents/subcontractors in his policy, as specified above, including a separate Owners, Contractors Protective Liability Policy.

**D. CONTRACT TERMS AND CONDITIONS**

The interpretation and performance of this contract, and all transactions under it, shall be governed by the laws of the state of Florida. The contract documents shall include all terms and conditions of the proposal specifications, any addenda, proposal and Departmental contract issued as a result of this ITN (**ATTACHMENT B, MODEL CONTRACT - CONTRACTUAL SERVICES AGREEMENT**).

If initially competitively procured, contracts for contractual services may, upon mutual agreement, be renewed on a yearly basis for no more than three (3) years, or for a period no longer than the term of the original contract, whichever period is longer. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the original contract. Renewals shall be contingent upon satisfactory performance evaluations by the Department.

**E. INSTRUCTIONS TO PROPOSERS**

Submit one (1) original, and five (5) duplicate copies of the proposal and all attachments when responding to this ITN. Proposals shall be delivered to the Department's purchasing office before the specified proposal opening date in a sealed envelope labeled with the proposer's name and address and the RFP number. The proposal must be complete, bound by three-ring or spiral binder (please do not bind with staples, paper clips, binder clips, rubber bands, file folders or envelopes). Sequentially number all pages and organize as indicated below. All pages of the proposal must be no larger than 8 ½" by 11" in size. Text shall be typed single-spaced on one side of the sheet only.

Emphasis of each proposal must be on completeness and clarity of content. In order to expedite the evaluation process, it is essential that proposers follow the format and instructions contained herein.



- 4. Were issues and problems addressed and/or resolved in a timely and satisfactory manner?  
Excellent          Good          Fair          Poor
- 5. How would you rate the company's project and contract management abilities?  
Excellent          Good          Fair          Poor

**TAB C Statement of Qualifications** (75 points maximum)

- a. Overview - Provide an overview of company, including years in business, previous/current clients and areas of expertise. (15 points maximum)
- b. Marketing Experience – Describe marketing campaign experience. List at least three (3) examples of previous marketing campaigns, including a summary of project, name of client, years as agency of record, estimated annual budget, type of marketing activities, retail campaign experience, markets and campaign results. (25 points maximum)
- c. Media Planning and Buying Experience – Describe media planning and media buying experience. List at least three (3) examples of previous media planning and buying projects, include summary of project, name of client, years as media buying agency, estimated annual media budget, type of media, markets and results. Include digital and social media buying experience. If applicable, include experience posting media buys. (25 points maximum)
- d. Personnel - Provide a complete list of all of your firm's principals with professional biographies, and identify all personnel you intend to assign to this project, describing their professional backgrounds and project roles and responsibilities, including subcontractors. (10 points maximum)

**TAB D Management Plan and Technical Proposal** (50 points maximum)

**Project Management Plan** (10 points maximum)

Provide a comprehensive project management plan that, at a minimum, includes:

- a. Project objectives, including quantifiable, measurable goals;
- b. Project schedule, including all timelines beginning with the contract start date through estimated completion date;
- c. Proposer's project communication plan;
- d. Responsibility task matrix for proposer and the Department;
- e. Payment schedule based upon the deliverables.

**Technical Proposal** (40 points maximum)

Provide a technical proposal that, at a minimum, includes:

- a. Marketing Plan – Provide a proposed marketing plan that includes the recommended media mix, flight weeks, event activations. Explain the marketing strategy, goals and measurements.

**TAB E Project Fees** (25 points maximum)

Proposers shall provide fees on Appendix I, which the proposer plans to operate this contract for all the contracted services as specified herein. Any proposals that do not include the project fees shall be rejected as non-responsive.

- a. Media Commission – The maximum commission percentage that will be charged for media. Total fees must be shown as a % of total media buy. The percentage must be a value greater than 0%. **The lowest percent commission rate will be given the maximum evaluation points allowed for this section, and each other proposer will be given a percentage if the total points based on the percentage difference of their price versus the lowest total proposal price. No other type of fees will be acceptable for media buy.**

**Presentations**

As part of any negotiations, FDACS reserves the right to invite proposers for demonstrations or presentations of their proposals. In that event, proposers will separately receive guidance from the Department about the specifics of any demonstration or presentation at the appropriate time. All presentations shall be held in Tallahassee, Florida.

**TAB F Drug-Free Workplace**

Preference shall be given to bids certifying a drug-free workplace has been implemented in accordance with Section 287.087, Florida Statutes. Whenever two or more equal bids are received by the state or by any political subdivision for the procurement of commodities or contractual services, the bid received from a business that certifies it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program (**ATTACHMENT C, DRUG- FREE WORKPLACE PROGRAM- BIDDER CERTIFICATION**). If applicable, please sign and return with your response.

**TAB G CONFLICT OF INTEREST**

This form shall be completed with all information and signature of an official of proposing firm who is legally authorized to contract for the firm. The signed original of this form must be attached to the original proposal package (**ATTACHMENT D, CONFLICT OF INTEREST STATEMENT**).

**TAB H CERTIFICATION REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS FOR EXPENDITURE OF FEDERAL FUNDS**

Any person submitting a response to this bid **MUST** execute the enclosed form FDACS-01522, CERTIFICATION REGARDING LOBBYING ; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS FOR EXPENDITURE OF FEDERAL FUNDS, and enclosed it with his/her bid or proposal (**ATTACHMENT F, CERTIFICATION REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS FOR EXPENDITURE OF FEDERAL FUNDS**). The Certification for Lobbying is required by 7 CFR Part 3018 for expenditures \$100,000 and above. The Certification for Debarment and Suspension and Other Responsibility Matters required by 7 CFR Part 3017 for expenditures \$25,000 and above.

**F. PROPOSAL EVALUATION AND AWARD**

**Proposals will first be reviewed to see if they conform to all mandatory requirements. Proposals that do not conform to the requirements, or contain material deviations from the**

**specifications, will be rejected as non-responsive and not further reviewed.** Following a review of proposals for responsiveness, an appointed evaluation committee will utilize a point system to create a list of responses in ranked order. Available points for each of the evaluation criteria are specified herein.

As the best interest of the state may require, FDACS reserves the right to reject any and all responses or waive any minor irregularity or technicality in responses received. Proposers are cautioned to make no assumptions unless their response has been evaluated as being responsive. Any further clarification, if necessary, will be by written addendum. All other provisions of the award paragraphs, General Contract Conditions, shall prevail. FDACS reserves the right to award, or not award, contract(s) based on the availability of funds. FDACS reserves the right to request financial data from the selected vendor during the negotiation process. The Department is not liable for any costs incurred by a proposer in preparing a proposal, attending site visits or attending or preparing any demonstrations/presentations.

FDACS will evaluate responses and rank the responses by scoring order in order to identify a proposer or proposers within a competitive range of responses and with whom the Department may negotiate a final contract award reflecting best value to the state of Florida.

Negotiations shall commence upon issuance of a notice of intent to negotiate. FDACS reserves the right to negotiate with a single proposer or multiple proposers in an order of the Department's choosing and to conduct negotiations independently or concurrently. FDACS also reserves the right to invite proposers to present demonstrations or presentations as part of negotiations. In that event, proposers will separately receive guidance from the Department about the specifics of any demonstration or presentation at the appropriate time.

**G. EVALUATION PROCEDURE**

The evaluation committee will utilize a point system to create a list of proposals in ranked order. Available points for each of the evaluation criteria are listed below. Award will be recommended to the proposer with the highest average cumulative point total based on the criteria below.

<u>Range of Points</u>	<u>Criteria</u>
1-25 (Tab B)	Past Performance/References
1-75 (Tab C)	Statement of Qualifications
1-50 (Tab D)	Management Plan and Technical Proposal
1-25 (Tab E)	Project Fees
<b><u>175</u></b>	<b><u>Maximum Points</u></b>

**H. INTERPRETATIONS/DISPUTES**

Any questions concerning conditions and specifications shall be directed in writing to the purchasing office for receipt no later than 10 days prior to the bid opening. No interpretation shall be considered binding unless provided in writing by the Department's purchasing director in response to requests in full compliance with this provision. Any person, who is adversely affected by the agency's decision or intended decision, shall file with the agency a Notice of Protest in writing within 72 hours after the posting of the notice of decision or intended decision. Protests must be filed with the Agency Clerk, Florida Department of Agriculture and Consumer Services, The Holland Building, 600 South Calhoun Street, Tallahassee, Florida 32399. With respect to a

**BID NUMBER: ITN/DM-17/18-12**

**OPENING DATE: SEPTEMBER 12, 2017 @ 2:00 P.M.**

protest of the terms, conditions and specifications contained in a solicitation, including any provision governing the methods for ranking bids, proposals or replies, awarding contracts, reserving rights or further negotiation or modifying or amending any contract, the Notice of Protest shall be filed in writing within 72 hours after the posting of the solicitation. The formal written protest shall state with particularity the facts and law upon which the protest is filed.

## **ATTACHMENT A**

### **STATE OF FLORIDA**

#### **FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

##### **NOTIFICATION OF VENDOR OMBUDSMAN'S NAME AND TELEPHONE NUMBER**

Vendors providing goods and services to an agency should be aware of the following time frames. Upon receipt, an agency has five (5) working days to inspect and approve the goods and service, unless the bid specifications, purchase order or contract specifies otherwise. An agency has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days, a separate interest penalty of .02740 percent per day will be due and payable, in addition to the invoice amount, to the vendor. Payments to health care providers for hospital, medical or other health care services, shall be made not more than 35 days from the date eligibility for payment is determined, and the daily interest rate is .03333 percent. Interest penalties of less than one (1) dollar will not be enforced unless the vendor requests payment. Invoices which have to be returned to a vendor because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the agency.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payments(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Department of Financial Services Consumer Hotline at 1-877-693-5236 or (850) 413-3089.



**ATTACHMENT B**



Florida Department of Agriculture and Consumer Services  
Division of Administration

**CONTRACTUAL SERVICES AGREEMENT**

ADAM H. PUTNAM  
COMMISSIONER

This AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, by and between the FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, the DEPARTMENT, and \_\_\_\_\_, the CONTRACTOR.

CONTRACT PERIOD: \_\_\_\_\_

SCOPE OF WORK: The CONTRACTOR agrees to provide the following commodities and/or services:

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

DELIVERABLES: The CONTRACTOR must provide the following quantifiable, measureable and verifiable units of deliverables which must be received and accepted in writing by the contract manager before payment. These deliverables are directly related to the Scope of Work specifying minimum levels of service to be performed and criteria for evaluating the successful completion of each deliverable.

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

Intellectual property is subject to the following provisions:

- A. Anything by whatsoever designation it may be known, that is produced by, or developed in connection with this contract shall become the exclusive property of the DEPARTMENT and may be copyrighted, patented or otherwise restricted as provided by Florida or federal law. Neither the CONTRACTOR nor any individual employed under this contract shall have any proprietary interest in the product.
  
- B. With respect to each deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the DEPARTMENT.

- C. In the event it is determined as a matter of law that any such work is not a "work for hire," CONTRACTOR shall immediately assign to the DEPARTMENT all copyrights subsisting therein for the consideration set forth in the contract and with no additional compensation.
  
- D. The foregoing shall not apply to any preexisting software, or other work of authorship used by CONTRACTOR to create a deliverable but which exists as work independent of the deliverable, unless the preexisting software or work was developed by CONTRACTOR pursuant to a previous contract with the DEPARTMENT or a purchase by the DEPARTMENT under a State Term Contract.

The DEPARTMENT agrees to provide the following services:

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

The Department of Management Services' designated United Nations Standard Products and Services Code (UNSPSC) is:\_\_\_\_\_

The DEPARTMENT will pay the CONTRACTOR as follows:

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

Bills for any authorized travel expenses shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes, governing payments by the state for travel expenses. Authorization for travel expenses must be specified in the paragraph for payments directly above.

Bills for services shall be submitted to the DEPARTMENT in detail sufficient for a proper-pre-audit and post-audit thereof.

Section 215.422, Florida Statutes, provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the purchase order specifies otherwise. With the exception of payments to health care providers for hospital, medical or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice is received or the date the goods or services are received, inspected and approved, a separate interest penalty set by the Chief Financial Officer pursuant to Section 55.03, Florida Statutes, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Agency's Fiscal Section at (850) 617-7200 or Purchasing Office at (850) 617-7181.

Transaction Fee: CONTRACTOR shall be pre-qualified as meeting mandatory requirements and qualifications and shall remit fees pursuant to section 287.057(22), F.S., and any rules implementing section 287.057, F.S.

Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Department of Financial Services' Hotline, 1-877-693-5236.

The DEPARTMENT may make partial payments to the CONTRACTOR upon partial delivery of services when a request for such partial payment is made by the CONTRACTOR and approved by the DEPARTMENT.

This contract may be cancelled by either party giving \_\_\_\_\_ written notice.

The DEPARTMENT may terminate this contract at any time in the event of the default or failure of the CONTRACTOR to fulfill any of its obligations hereunder. Prior to the exercise of any remedy provided for herein, the DEPARTMENT shall provide thirty (30) calendar days written notice of default and shall provide the CONTRACTOR the opportunity to cure such failure or default within said thirty (30) day period. Upon the failure or inability to cure, the DEPARTMENT shall have all rights and remedies provided at law or in equity, including without limitation the following:

- A. Temporarily withhold cash payments pending correction of the deficiency by the CONTRACTOR.
- B. Disallow all or part of the cost of the services not in compliance.
- C. Wholly or partly suspend or terminate this contract.

The DEPARTMENT shall have the right of unilateral cancellation for refusal by the CONTRACTOR to allow public access to all documents, papers, letters or other material made or received by the CONTRACTOR in conjunction with the contract, unless the records are exempt from s. 24(a) of Article I of the State Constitution and s. 119.07(1), Florida Statutes.

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:

OFFICE OF GENERAL COUNSEL  
407 SOUTH CALHOUN STREET, SUITE 520  
TALLAHASSEE, FL 32399  
PHONE: (850) 245-1000  
EMAIL: [PRCUSTODIAN@FRESHFROMFLORIDA.COM](mailto:PRCUSTODIAN@FRESHFROMFLORIDA.COM)

The CONTRACTOR must:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the DEPARTMENT in order to perform the service.
- B. Provide the public with access to public records on the same terms and conditions that the DEPARTMENT provides the records and at a cost that does not exceed the cost provided by the law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D. Meet all requirements for retaining public records and transfer, at no cost, to the DEPARTMENT all public records in possession of the CONTRACTOR upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the DEPARTMENT in a format that is compatible with the information technology systems of the DEPARTMENT.

Extension of a contract for contractual services shall be in writing for a single period only not to exceed six (6) months and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the CONTRACTOR. Contracts for contractual services may be renewed on a yearly basis for no more than three (3) years, or for a period no longer than the term of the original contract, whichever period is longer. Renewal of a contract for contractual services shall be in writing and shall be

subject to the same terms and conditions set forth in the initial contract. Renewals shall be contingent upon satisfactory performance evaluations by the DEPARTMENT and subject to the availability of funds. Renewal costs may not be charged by the CONTRACTOR. Exceptional purchase contracts (single source and emergency contracts) pursuant to section 287.057(3)(a) and (c), Florida Statutes, may not be renewed.

It is mutually understood and agreed that:

- A. The state of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature as provided in Section 287.0582, Florida Statutes.
- B. Payments made under this contract are subject to the approval of the State Chief Financial Officer (Department of Financial Services).

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, in accordance with section 287.042, Florida Statutes, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Available products, pricing and delivery information may be obtained by contacting: RESPECT of Florida, 2475 Apalachee Parkway, Suite 205, Tallahassee, Florida 32301-4946, telephone number (850) 877-4816 and fax number (850) 942-7832.

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, in accordance with section 287.095(3), Florida Statutes, this contract shall be purchased from the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the same procedures set forth in section 946.515(2) and (4), Florida Statutes; and for the purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the DEPARTMENT insofar as dealings with such corporation are concerned. The "corporation identified" is Prison Rehabilitative Industries and Diversified Enterprises, Incorporated. Available products, pricing and delivery schedules may be obtained by contacting: PRIDE of Florida, 223 Morrison Road, Brandon, Florida 33511-4835, telephone number (813)

324-8700.

The CONTRACTOR is informed that 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 on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 from the date of being placed on the convicted vendor list.

The CONTRACTOR shall not discriminate on the basis of race, sex, religion, color, national origin age or disability and shall comply with all applicable state and federal laws and regulations related thereto, including without limitation, the Americans with Disabilities Act (42 USC 12101 et. Seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC 795); and the Age Discrimination Act of 1975 (42 USC 6101-6107).

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

The CONTRACTOR will comply with section 20.055, Florida Statutes.

The CONTRACTOR is informed that an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

Any changes to the AGREEMENT require the written approval of each party's authorized official.

In the event that two or more documents combine to form this agreement between the parties, including future amendments and addenda, and in the event that there are contradictory or conflicting clauses or requirements in these documents, the provisions of the document(s) prepared by the DEPARTMENT shall be controlling.

All contracts entered into by the DEPARTMENT or any division or bureau thereof, are and shall be controlled by Florida law, contrary provisions notwithstanding.

In the event that any clause or requirement of this agreement is contradictory to, or conflicts with the requirements of Florida law, including, but not limited to requirements regarding contracts with Florida's governmental agencies, the offending clause or requirement shall be without force and effect and the requirements of the Florida Statutes and rules promulgated thereunder on the same subject shall substitute for that clause or requirement and be binding on all parties to this contract.

The contract manager for the DEPARTMENT is \_\_\_\_\_  
and is located at \_\_\_\_\_

The contract manager for the CONTRACTOR is \_\_\_\_\_  
and is located at \_\_\_\_\_

Signed by parties to this agreement:

FLORIDA DEPARTMENT OF AGRICULTURE      CONTRACTOR  
AND CONSUMER SERVICES

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Director of Administration  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## ATTACHMENT C



ADAM H. PUTNAM  
COMMISSIONER

Florida Department of Agriculture and Consumer Services  
Bureau of General Services  
**DRUG-FREE WORKPLACE PROGRAM - BIDDER CERTIFICATION**

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

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

---

VENDOR'S SIGNATURE



# ATTACHMENT D

STATE OF FLORIDA

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES



ADAM H. PUTNAM  
COMMISSIONER

## CONFLICT OF INTEREST STATEMENT

I, \_\_\_\_\_, as authorized representative  
of \_\_\_\_\_ certify that no member of this firm or any  
person having interest in this firm has been awarded a contract by the Department of Agriculture  
and Consumer Services on a non-competitive basis to:

- (1) develop this Invitation to Negotiate (ITN);
- (2) perform a feasibility study concerning the scope of work contained in this ITN;
- (3) develop a program similar to what is contained in this ITN.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bid Number

ATTACHMENT E



ADAM H. PUTNAM  
COMMISSIONER

Florida Department of Agriculture and Consumer Services  
Division of Administration

**CERTIFICATION REGARDING LOBBYING;  
DEBARMENT, SUSPENSION AND OTHER  
RESPONSIBILITY MATTERS  
FOR EXPENDITURE OF FEDERAL FUNDS**

**LOBBYING**

As required by 7 CFR Part 3018, for persons entering into a contract, grant or cooperative agreement over **\$100,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
PRINTED NAME/TITLE OF REPRESENTATIVE

\_\_\_\_\_  
CONTRACT / PURCHASE ORDER NUMBER

\_\_\_\_\_  
SIGNATURE OF REPRESENTATIVE / DATE

**DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

As required by 2 CFR Part 417, for persons entering into a contract, grant or cooperative agreement over **\$25,000** involving the expenditure of Federal funds, the undersigned certifies for itself and its principals that:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; 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;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State, or local) with commission of any offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

\_\_\_\_\_  
PRINTED NAME/TITLE OF REPRESENTATIVE

\_\_\_\_\_  
CONTRACT / PURCHASE ORDER NUMBER

\_\_\_\_\_  
SIGNATURE OF REPRESENTATIVE / DATE

FDACS-01522 09/12

### ATTACHMENT F



## Florida Department of Agriculture and Consumer Services Bureau of General Services

ADAM H. PUTNAM  
COMMISSIONER

### REFERENCES

As per the requirements of the proposal special condition References, each proposer is required to submit the names, addresses and telephone numbers for three (3) references. References shall be listed below.

In order for your bid to be considered responsive, this form must be completed and included in your bid package.

1. CLIENT NAME: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
TELEPHONE NUMBER: ( \_\_\_\_\_ ) \_\_\_\_\_  
EMAIL: \_\_\_\_\_
  
2. CLIENT NAME: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
TELEPHONE NUMBER: ( \_\_\_\_\_ ) \_\_\_\_\_  
EMAIL: \_\_\_\_\_
  
3. CLIENT NAME: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
TELEPHONE NUMBER: ( \_\_\_\_\_ ) \_\_\_\_\_  
EMAIL: \_\_\_\_\_

**APPENDIX I**

**PROJECT FEES**

Media Commission: The **maximum** commission percentage rate that will be charged for media \_\_\_\_\_%

Partnership Activations (optional) \$\_\_\_\_\_

Creative Services Hourly Rate \$\_\_\_\_\_

Proposers shall provide a **detailed** budget under which the proposer plans to operate this contract for all of the commodities and contractual services as specified herein. Proposers shall include a completed Appendix I (Project Fees) in Tab E. **Any proposals, which do not include the project fees, shall be rejected as non-responsive.**

By affixing signature to this **PRICE SHEET**, contractor acknowledges reading and agrees to accept all terms, provisions and conditions in this Invitation to Negotiate.

CONTRACTOR NAME: \_\_\_\_\_

SIGNATURE (MANUAL): \_\_\_\_\_

SIGNATURE (PRINTED): \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

FEID: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_

EMAIL: \_\_\_\_\_