

**DEPARTMENT OF FINANCIAL SERVICES  
Attachment A (Contract Attachment 1)  
Contract Signature Page**

Contract Title	P.O. No. or Solicitation No., if any <b>DFS OIT ITN 1718-04</b>	Contract Number
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1. This Contract is entered into between the Department of Financial Services and the Contractor named below:

<b>The Department of Financial Services, 200 East Gaines St., Tallahassee, FL 32399</b>	(hereinafter called the Department)
Contractor's Name	(hereinafter called the Contractor)

2. Contract Effective Date:	Date of Completion: seven (7) years after Effective Date	Renewals: Up to seven (7) additional years
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3. Performance Bond, if any:	Other Bonds, if any:
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4. Total Value for Contract Term:	Total Value of Renewal(s):	Total Value of Contract Term Plus Renewal(s):
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5. Department's Contract Manager		Contractor's Client Manager	
Name:		Name:	
Address:		Address:	
Phone:		Phone:	

6. The parties agree to comply with the terms and conditions of the following attachments which are hereby incorporated by reference:

Attachment 1: Standard Terms and Conditions
Attachment 2: Statement of Work
Attachment 3: Price Response
Attachment 4: PUR 1000

7. The parties agree to comply with the terms and conditions of the following addenda which are hereby incorporated by reference:

Addendum A: Public Records Requirements
Addendum B: Data Security Requirements
Addendum C: Glossary

**IN WITNESS WHEREOF, this Contract is being executed in consideration of the mutual covenants of the parties and is effective on the date in the Effective Date above or the last date signed below, whichever is later.**

8.

**CONTRACTOR**

Contractor's Name (if other than individual, state whether corporation, partnership, etc.)	
By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing	

9.

**DEPARTMENT**

Department of Financial Services	
By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing	

**DEPARTMENT OF FINANCIAL SERVICES  
STANDARD TERMS AND CONDITIONS  
DFS OIT ITN 1718-04  
APPLICABLE TO COMPETITIVELY PROCURED CONTRACTS**

**Attachment A (Contract Attachment 1)**

**1. Entire Contract.**

This Contract, including any Attachments and Addenda referred to herein and attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any preprinted contract terms and conditions included on Contractor's forms or invoices shall be null and void.

**2. Contract Administration.**

- a. Order of Precedence. If there are conflicting provisions the documents that make up the Contract, the order of precedence for the documents is as follows:
  - i) Attachment 2, Statement of Work
  - ii) Contract Signature Page
  - iii) Attachments other than the Statement of Work, in numerical order as designated in the Contract Signature Page
  - iv) The Addenda in alphabetical order as designated in the Contract Signature Page
- b. All written and verbal approvals referenced in this Contract must be obtained from the parties' Contract Managers, or designees, referenced in the Contract.
- c. In the event that different Contract Manager and Client Manager are designated by either party after execution of this Contract, notice of the name and contact information of the new Contract Manager and Client Manager shall be submitted in writing to the other party and maintained in the respective parties' Contract records.
- d. This Contract may be amended only by a written agreement between both parties.

**3. Contract Duration.**

- a. Term. The term of the Contract shall begin and end on the dates indicated on the Contract Signature Page unless terminated earlier in accordance with the applicable terms and conditions.
- b. Renewals. Section 287.058(1)(g), F.S., is hereby incorporated by reference and any renewals provided under the Contract must meet the requirements of this statute. If the Contract Signature Page indicates renewals are available, the Contract may be renewed for the timeframe(s) indicated in the Standard Contract.

**4. Deliverables.**

The Contractor agrees to render the services or other units of deliverables as set forth in the Attachment 2, Statement of Work. The services or other units of deliverables specified in the above paragraph shall be delivered in accordance with the schedule and at the pricing outlined in the Statement of Work. Deliverables may be comprised of tasks or activities that must be completed prior to the Department making payment on that deliverable.

**5. Performance Measures.**

The Contractor warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Statement of Work; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees shall comply with any security requirements and processes as provided by the Department, or provided by the Department's customer, for work done at the Department or other locations. The Department reserves the right to investigate or inspect at any time whether the services or qualifications offered by the Contractor meet the Contract requirements. Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable/minimum requirement does not foreclose the Department's remedies in the event those performance standards that cannot be readily measured at the time of delivery are not met.

**6. Acceptance of Deliverables.**

- a. Acceptance Process. All deliverables must be received and accepted in writing by the Contract Manager before payment.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables as outlined in the Statement of Work as incomplete, inadequate, or unacceptable due in whole or in part to the Contractor's lack of satisfactory performance under the terms of this Contract. Failure to use the appropriate technical requirements or complete all tasks or activities as identified in the Statement of Work will result in automatic deliverable rejection and may not be invoiced or paid until correction of the deliverable. Failure to complete the required duties as outlined in the Statement of Work will result in the rejection of the invoice. The Department, at its option, may allow additional time within which the Contractor may remedy the objections

noted by the Department and the Department may, after having given the Contractor a reasonable opportunity to complete, make adequate or acceptable said deliverables, declare this Contract to be in default. If the Contract Manager rejects the deliverables, the Contractor shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time, at the Contractor's expense. If the Contract Manager does not accept the deliverables within 30 days, they will be deemed rejected.

- c. Status Reports. If status reports are required as part of the Contract, the Contractor shall timely submit status reports showing deliverables, tasks, or activities worked on, attesting to the level of services provided, hours spent on each deliverable/task/activity, and upcoming major deliverables, tasks, or activities.
- d. Completion Criteria and Date. The Contract will be considered complete once all of the deliverables under the Contract have been provided and accepted. The final date for completion of the Contract shall not exceed the Contract duration, including any executed renewals or extensions, or, where applicable, the expiration date of any purchase orders made from the Contract.

## **7. Financial Consequences for Nonperformance.**

Withholding Payment. In addition to the specific consequences explained in the Statement of Work, the state of Florida (State) reserves the right to withhold payment when the Contractor has failed to perform/comply with provisions of this Contract. These consequences for nonperformance shall not be considered penalties.

## **8. Dispute Resolution.**

Any claim, counterclaim, or dispute between the Department and the Contractor relating to this Contract shall be resolved as set forth herein. For all claims, the party with the dispute shall submit an affidavit executed by that party's Contract Manager or his or her designee certifying that:

- i) The claim is made in good faith,
- ii) The claim accurately reflects the adjustments for performance, and
- iii) The supporting data provided with such an affidavit are current and complete to the Contract Manager's best knowledge and belief.

The Contractor is obligated to address any cost related issues with the Department for which the Contractor believes the State is liable and address all costs of every type to which the Contractor is entitled from the occurrence of the claimed event. The Contractor shall not seek a claim under this Contract for an increase in payment.

- a. Informal Resolution Process. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Department's Chief Financial Officer (CFO), or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
  - i) The representatives of the Contractor and the Department shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
  - ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to this Contract will be honored in order that each of the parties may be fully advised of the other's position.
  - iii) The specific format for the discussions will be left to the discretion of the designated Department's and the Contractor's representatives but may include the preparation of agreed upon statements of fact or written statements of position.
  - iv) Following the completion of this process, the Department, or designee, shall issue a written opinion regarding the issue(s) in dispute. The opinion regarding the dispute shall be considered the Department's final action.
- b. Continued Performance. Each party agrees to continue performing its obligations under this Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute with the Department over compensation shall not be deemed to preclude performance) and without limiting either party's right to terminate this Contract for convenience or default.

## **9. Payment.**

- a. Payment Process. Subject to the terms and conditions established by the Statement of Work, the pricing per deliverable established by the Attachment 3, Price Response, or Statement of Work, and the billing procedures established by the Department, the Department agrees to pay the Contractor for services rendered in accordance with section 215.422, F.S. To obtain the applicable interest rate, please refer to <http://www.myfloridacfo.com/Division/AA/Vendors/default.htm>
- b. Vendor Rights. A Vendor Ombudsman has been established within the Department. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516.
- c. Taxes. The Department is exempted from payment of Florida State sales and use taxes and Federal Excise Tax. The Contractor, however, shall not be exempted from paying Florida State sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the

Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Department its taxpayer identification number upon request.

- d. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by the Department pursuant to the Statement of Work, shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed.
- e. Interim Payments. Interim payments may be made by the Department at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the Department's Contract Manager.
- f. Annual Appropriation Contingency. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

## 10. Insurance.

- a. Required Coverage. At all times during the Contract, the Contractor, at its sole expense, and its subcontractors, if any, shall maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Contract. 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 licensed and authorized to write policies in Florida. Unless specifically exempted in the Statement of Work, the following are the minimum insurance requirements applicable to this Contract:
  - i) Commercial General Liability Insurance.  
By execution of this Contract, unless the Contractor is a state agency or subdivision as defined by subsection 768.28(2), F.S., the Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. A self-insurance program established and operating under the laws of the State may provide such coverage. The Department shall be named as an additional insured on any general liability policies.
  - ii) Workers' Compensation and Employer's Liability Coverage.  
The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S., and employer's liability insurance with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any Contract work.
  - iii) Other Insurance.  
At all times during the Contract, the Contractor shall maintain any other insurance as required in the Statement of Work.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor providing such insurance.
- c. Verification of Insurance. Upon execution of this Contract, the Contractor shall provide the Department written verification of the existence and amount for each type of applicable insurance coverage. Upon receipt of written request from the Department, the Contractor shall furnish the Department proof of applicable insurance coverage by standard form certificates of insurance.
- d. Failure to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, the Contractor shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

## 11. Termination.

- a. Contractor Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination, and except as otherwise directed by the Department, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Contractor shall accept no further work or new services related to the affected deliverables, and shall, as soon as practicable, but in no event longer than 30 calendar days after termination, terminate any orders and/or subcontracts related to the terminated deliverables and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Department to the extent required, which approval or ratification shall be final for the purpose of this section. The Contractor shall not perform any services after it receives the notice of termination or after Contract expiration, except as necessary to complete the transition or continued portion of the Contract, if any. Contractor shall submit to the Department within 90-calendar days of termination a request for payment of completed services. Requests submitted later than 90-calendar days after termination will not be honored and will be returned unpaid. All services for which the Department has paid prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Department for any fees or expenses that the Department may incur in securing a substitute provider to assume completion of those services.
- b. Contractor Obligations after Termination. If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a provider other than the Contractor, the Contractor has the affirmative obligation to assist in the

smooth transition of Contract services to the subsequent contractor in accordance with Exit Transition requirements in the Statement of Work.

- c. Termination for Convenience. The Department may, in its sole discretion, terminate the Contract at any time by giving 30 days' written notice to the Contractor.

## **12. Notice of Default.**

If the Contractor defaults in the performance of any covenant or obligation contained in the Contract, including, without limitation, any of the events of default listed below, the Department shall provide notice to the Contractor and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Contractor fail to perform within the time provided, the Contractor will be found in default, and the Department may terminate the Contract effective as of the date of receipt of the default notice.

## **13. Events of Default.**

Provided such failure is not the fault of the Department or outside the reasonable control of the Contractor, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Contract by the Contractor, including failure to timely deliver a material deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract;
- b. Failure to maintain adequate progress, thus endangering performance of the Contract;
- c. Failure to honor any term of the Contract,
- d. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Contractor by the state or other licensing authority;
- e. Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;
- f. Employment of an unauthorized alien in the performance of the work, in violation of section 274 (A) of the Immigration and Nationality Act;
- g. One or more of the following circumstances, uncorrected for more than 30-calendar days unless within the specified 30-day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract:
  - i) Entry of an order for relief under Title 11 of the United States Code;
  - ii) The making by the Contractor of a general assignment for the benefit of creditors;
  - iii) The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property;
  - iv) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
- h. The commitment of an intentional material misrepresentation or omission in any materials provided to the Department;
- i. Failure to comply with the E-Verify requirements of this Contract; and
- j. Failure to or maintain the insurance required by this Contract.

## **14. Indemnification.**

All references to attorneys' fees in section 19, PUR 1000, are stricken.

## **15. Limitation of Liability.**

The following terms supplement the limitations of liability terms in PUR 1000, section 20: The Department's liability for any claim arising from this Contract is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Contract. Such liability is further limited to a cap of \$100,000.

## **16. Remedies.**

Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable does not foreclose the Department's remedies in the event those performance standards that cannot be readily measured at the time of delivery are not met. Nothing in this Contract shall be construed to make the Contractor liable for force majeure events. Nothing in this Contract, including financial consequences for nonperformance shall limit the Department's right to pursue its remedies for other types of damages under the Contract, at law, or in equity. The Department may, in addition to other remedies available at law or equity and upon notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against it. The Department may set off any liability or other obligation of the Contractor or its affiliates to the Department against any payments due the Contractor under any contract with the State.

### **17. Waiver.**

The delay or failure by the Department to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Department'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.

### **18. Record Retention.**

The Contractor shall retain records demonstrating its compliance with the terms of the Contract five (5) years after the expiration of the Contract and all pending matters, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. If the Contractor is required to comply with section 119.0701, F.S., then compliance with the retention of records in accordance with section 119.0701(2)(b)4., F.S., will fulfill the above stated requirement. If the Contractor's record retention requirements terminate prior to the requirements stated herein, the Contractor may meet the Department's record retention requirements for this Contract by transferring its records to the Department at that time, and by destroying duplicate records in accordance with section 501.171, F.S., and, if applicable, section 119.0701, F.S. The Contractor shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.

### **19. Intellectual Property.**

The following terms apply, unless otherwise stated in the Statement of Work:

- a. The Contractor's intellectual property rights that preexists this Contract will remain with the Contractor. Intellectual property rights to all property created or otherwise developed by Contractor specifically for the Department will be owned by the State through the Department. Proceeds derived from the sale, licensing, marketing, or other authorization related to any such Department-controlled intellectual property right shall be handled in the manner specified by applicable statute.
- b. If the Contractor fails to provide, or no longer can provide, a deliverable or service under the Contract that contains or otherwise utilizes intellectual property controlled by the Contractor, the Contractor shall grant the Department a royalty-free, paid-up, nonexclusive, perpetual license to use, modify, reproduce, distribute, publish or release to others, such Contractor-controlled intellectual property solely for use in connection with the deliverables or services under the Contract.

### **20. Ownership of Property.**

Title to all property furnished by the Department under this Contract and deliverables provided to the Department shall remain property of the Department and/or become property of the Department upon receipt and acceptance. The Contractor shall perfect any transfer of the property of the Department upon completion, termination, or cancellation of the Contract prior to payment of the final invoice.

### **21. Nonexclusive Contract.**

This Contract is not an exclusive license to provide the services described in the solicitation or the resulting Contract. The Department may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar services.

### **22. Statutory Notices.**

The Department shall consider the employment by any contractor of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationality Act (see 8 USC 1324a). Pursuant to sections 287.133 and 287.134, F.S., the following restrictions are placed on the ability of persons placed on the convicted vendor list or the discriminatory vendor list:

- a. **Public Entity Crime.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendors.** An entity or affiliate that has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

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

### **23. Compliance with Federal, State, and Local Laws.**

- a. The Contractor and all its agents shall comply with all federal, state, and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.
- b. This Contract shall be governed by and construed in accordance with the laws of the State of Florida.
- c. If applicable, the Contractor shall ensure that, as to its products and services it develops for the Department, electronic and information technology accessibility requirements of the Rehabilitation Act Amendments, 29 USC section 794 are met. Section 508 of the Rehabilitation Act Amendments, 29 USC section 794, compliance information on the supplies and services in this Contract are available on a website indicated by the Contractor. The Electronic and Information Technology standard can be found at: <http://www.section508.gov/>.
- d. Scrutinized Companies. This provision applies only when the goods or services to be provided are \$1 million or more. Section 287.135, F.S., requires the Contractor to certify that it is not: 1) on the Scrutinized Companies with Activities in Sudan List, 2) on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or 3) participating in a boycott of Israel. By entering into this Contract, the Contractor certifies that it is not on either of these lists and that it is not participating in a boycott of Israel. The Contract may be terminated if the Contractor submits a false certification regarding such matters or is placed on either list. In addition, a Contract entered into on or after October 1, 2016, may be terminated if the Contractor is on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. The State Board of Administration maintains the "Scrutinized List of Prohibited Companies" list at the following link: <http://www.sbafla.com/fsb/PerformanceReports.aspx> and the "Quarterly List of Scrutinized Companies that Boycott Israel" list at the following link: <http://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/GlobalGovernanceMandates.aspx>.

### **24. Employment Eligibility Verification.**

The Contractor is responsible for payment of costs, if any, and retention of records relating to employment eligibility verification. These records are exempt from Chapter 119, F.S. Verification requires the following:

- a. E-Verify. In cooperation with the Governor's Executive Order 11-116, the Contractor must participate in the federal E-Verify System for employment eligibility verification under the terms provided in the "Memorandum of Understanding" with the U.S. Citizenship and Immigration Services if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty (30) days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify System. Information on "E-Verify" is available at the following website: <https://www.uscis.gov/e-verify>.
- b. Subcontractors. The Contractor further agrees that it will require each subcontractor that performs work under this Contract to enroll and participate in the E-Verify System if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify System and make such record(s) available to the Department upon request.  
Alternative. In the event legislation authorizes an alternative option as proof of legal status, the Contractor may use the process authorized by such legislation upon its passage.

### **25. Storage of State Data.**

All data centers used to process and store State Data under this Contract shall only be located in the United States.

### **26. Applicable Law and Disputes.**

Any dispute concerning performance of the Contract shall be processed according to the Statement of Work. Jurisdiction for any damages arising under the terms of the Contract will be in the courts of the State of Florida, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Contract.

### **27. Independent Contractor.**

The Contractor is an independent contractor and is not an employee or agent of the Department.

### **28. Subcontracting.**

- a. Unless otherwise specified in the Statement of Work, all services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Department.
- b. The Department may, for cause, require the replacement of any Contractor employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to the Department's secure information or any facility by any Contractor employee, subcontractor, or agent.

- d. The Department's actions under paragraphs b. or c. shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract.
- e. The Department will not deny the Contractor's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of the Department's denial is safety or security considerations.

**29. Guarantee of Parent Corporation.**

In the event the Contractor is a subsidiary of another corporation or other business entity, the Contractor asserts that its parent corporation will guarantee all of the obligations of the Contractor for purposes of fulfilling the obligations of the Contract. In the event the Contractor is sold during the period the Contract is in effect, the Contractor agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of the Contractor.

**30. Survival.**

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Contract.

**31. Exit Transition Services.**

Upon the earlier of six (6) months before the expiration of the Contract or upon any notice of termination of the Contract, the Contractor shall provide transition services (Exit Transition Services) to the Department without regard to the reason for termination, as stated herein. Exit Transition Services shall be provided for up to the period outlined in the Statement of Work during the term and after termination and will be limited to post-contract activities involving knowledge transfer for such services and deliverables and all reasonable termination assistance requested by the Department to facilitate the orderly transfer of such services to the Department or its designees.

**32. Third Parties.**

The Department shall not be deemed to assume any liability for the acts, omissions to act, or negligence of the Contractor, its agents, servants, and employees, nor shall the Contractor disclaim its own negligence to the Department or any third party. This Contract does not and is not intended to confer any rights or remedies upon any person other than the parties. If the Department consents to a subcontract, the Contractor will specifically disclose that this Contract does not create any third party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Contract.

**33. Employment of State Employees.**

During the term of this Contract, the Contractor shall not knowingly employ, subcontract with, or subgrant to any person (including any nongovernmental entity in which such person has any employment or other material interest as defined in section 112.312(15), F.S.), who is employed by the State or who has participated in the performance or procurement of this Contract except as provided in section 112.3185, F.S.

**34. Audits.**

The Contractor understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Contractor will comply with this duty and ensure that subcontracts issued under this Contract, if any, impose this requirement, in writing, on its subcontractors.

**35. Travel Reimbursement.**

Any travel expenses allowable under this Contract must be submitted in accordance with section 112.061, F.S.

**36. Use of State Funds to Purchase or Improve Real Property.**

Any State funds provided for the purchase of, or improvements to real property, are contingent upon the Contractor or political subdivision granting to the State a security interest in the property at least in the amount of State funds provided, for at least five (5) years from the date of purchase or the completion of the improvements, or as further required by law.



**DEPARTMENT OF FINANCIAL SERVICES**  
**STATEMENT OF WORK**  
**DFS OIT ITN 1718-04**  
**ENTERPRISE FINANCIAL SYSTEM SUPPORT SERVICES**  
**Attachment B (Contract Attachment 2)**

The specific terms in this Statement of Work shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, the more specific terms shall apply.

**1. Scope of Work.**

This Statement of Work describes a services master Contract in which a Contractor, under the supervision of the Enterprise Financial Support Services (EFSS), performs support, service, or enhancement activities (Services) that support the state of Florida's (State) enterprise financial management systems and users for an initial term of seven (7) years. After this time, EFSS may enter into renewal(s) of the Contract for up to seven (7) additional years, as permitted by section 287.057(13), Florida Statutes (F.S.).

The Services may relate to the business and presentation layers of the financial system, other associated applications, databases and reporting, or hardware and systems.

**2. Background**

The State enterprise financial management solution, known today as FLAIR, is a non-homogenous collection of applications, processing jobs, scripts, and file transfers. Collectively, they enable statewide checkbook accounting, budget control, Agency accounting, payroll, and financial reporting. As provided in State law, the FLAIR systems play a major role in ensuring that State financial transactions are accurately and timely recorded and that the State's Comprehensive Annual Financial Report (CAFR) is presented in accordance with appropriate standards, rules, regulations, and statutes. Section 215.90, F.S., designates the Department of Financial Services (DFS or the Department) as the functional owner of the State's financial systems, and the Department is responsible for their design, implementation, and successful operation.

EFSS, within the Office of Information Technology (OIT) is the DFS unit responsible for daily operation, maintenance, and support of the State's enterprise financial solution. Regardless of the technology, EFSS is responsible for ensuring the State has a secure, reliable financial system that can issue warrants, manage budget, and provide accurate data to the CAFR.

The current FLAIR systems are a combination of new and old technologies, some of which are fragile, and can be difficult to maintain. EFSS staff possess an array of skillsets that enable them to maintain the systems, but a notable percentage of EFSS staff are nearing retirement age. In 2014, the Department began the Florida Planning, Accounting and Ledger Management (PALM) project to modernize the state's financial systems, but the project's timeline requires that FLAIR continue to operate reliably for a minimum of 8-12 years. Due to its size, the Florida PALM project faces inherent risks that make a responsible, deliberate timeline an important mitigation factor. Any concern that FLAIR would become unable to meet the State's needs could prompt a risky acceleration of Florida PALM's timeframe, increasing the threat to the modernization project.

This Contract represents a modest investment in the 8-12-year sustainability of the FLAIR systems, puts the State into a better posture for meeting current obligations, mitigates the risk of unplanned acceleration to the Florida PALM project, and ensures that the State has a contingency plan for meeting its financial obligations to its employees, retirees, and vendors.

The Contract additionally allows the Department to begin implementing an organizational change roadmap for EFSS. Over the next 8-12 years, EFSS will need to simultaneously support existing systems, assist the Florida PALM project team, help protect the State's current and prior investments by identifying ways to re-task and re-tool existing Department assets, and train to eventually assume responsibility for operating the State's modernized financial management tools. This Contract will allow EFSS to begin migrating resources between responsibilities.

The intent of this Statement of Work, therefore, is to:

**DFS OIT ITN 1718-04**

**Attachment 2**

- a. Provide for the ongoing support, essential maintenance, and responsible enhancement of the FLAIR systems over the next decade; and
- b. Allow OIT resources to transition to support the Florida PALM implementation team, and eventually the new Florida PALM system as components come online.

### 3. Definitions.

In this Statement of Work, all terms shall have the respective meanings stated in Addendum C, Glossary.

## Statement of Work, Part One – Additional Terms and Conditions

### 4. Order of Precedence.

If there are conflicting provisions among the documents that make up the Statement of Work, the order of precedence for the documents is as follows:

- a. Attachment 2, Statement of Work, Part One
- b. The Services Delivery Framework (SDF) and associated Activity Definitions
- c. Project-specific statements of work (Supplemental Statements of Work) attached to Purchase Orders issued against this Contract under work stream three
- d. Attachment 2, Statement of Work, Part Two

### 5. PUR 1000

The following provisions found in PUR 1000, available at [http://dms.myflorida.com/business\\_operations/state\\_purchasing/documents\\_forms\\_references\\_resources/purchasing\\_forms](http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms) are not applicable to this Contract:

- a. Section 3. Product Version,
- b. Section 4. Price Changes Applicable only to Term Contracts subsections (b), Best Pricing Offer and (e), Equitable Adjustment,
- c. Section 5. Additional Quantities,
- d. Section 6. Packaging,
- e. Section 8. Safety Standards,
- f. Section 11. Transportation and Delivery,
- g. Section 12. Installation,
- h. Section 20. Limitation of Liability,
- i. Section 27. Purchase Order Duration,
- j. Section 32. Employees, Subcontractors, and Agents,
- k. Section 39. Leases and Installment Purchases, and
- l. Section 43. Cooperative Purchasing

### 6. Duration.

- a. Term. The term of the Contract shall begin on the Effective Date and end seven (7) years thereafter unless terminated earlier in accordance with the applicable terms and conditions.
- b. Renewals. Section 287.058(1)(g), F.S., is hereby incorporated by reference and any renewals provided under the Contract must meet the requirements of this statute. The Department may enter into renewal(s) of the Contract for up to seven (7) additional years.

### 7. Deliverables

- a. The Department shall authorize payment for the following approved and accepted Deliverables:

DFS OIT ITN 1718-04

Attachment 2

2 of 24

- i) Contract Initiation Services. (Quantity: 1) This Deliverable encompasses the effort required to initiate the Contract and includes development of the Services Delivery Framework, onboarding of Contractor Personnel, and training of Contractor Personnel in assigned Activities. Contractor shall submit the Services Delivery Framework document, roster of team members with Activity assignments, record of trainings conducted, and proficiency ratings as evidence of completion of this Deliverable.
  - ii) Annual Support Services. (Quantity: 12 per year) On a per-month basis, Contractor shall complete the Activities included in the month's Activity calendar in the Services Delivery Framework. Contractor shall submit Evidence of Work demonstrating completion of each Activity according to the applicable Activity Definition, together with a calendar showing dates required Activities were completed.
  - iii) Service Request Services. (Quantity: 12 per year) On a per-month basis, Contractor shall complete approved and assigned Service Request tickets. Contractor shall submit Evidence of Work demonstrating completion of Service Request tickets as defined in the Service Request ticket.
  - iv) Variable Enhancement Project Deliverables. (Quantity: to be determined (TBD)) Contractor shall complete Deliverables described in a Supplemental Statement of Work attached to a distinct Task Order authorizing a specific Variable Enhancement Project. Contractor shall submit Deliverables or Evidence of Work as defined in the supplemental Statement of Work.
- b. Performance Measures. The minimum performance level required for the Department to approve and authorize payment for each Deliverable is:
- i) Contract Initiation Services. **TO BE DEFINED DURING NEGOTIATIONS**
  - ii) Annual Support Services. 100% of the Annual Support Activities for a given month's Activity calendar are complete.
  - iii) Service Request Services. 100% of Service Request tickets included on a Contractor invoice are a) approved; b) completed; and c) hours charged for an individual ticket do not exceed approved hours.
  - iv) Variable Enhancements Project Deliverables. Minimum Performance Measures described in the applicable Supplemental Statement of Work have been met.
- c. Acceptance Criteria and Dates. Detailed completion criteria and Deliverable due dates are defined in the Service Delivery Framework and the Activity Definitions. In addition to meeting this criteria, by submitting a Deliverable for review, the Contractor certifies that it has at a minimum performed the following quality assurance steps:
- i) Contract Initiation Services. For the Service Delivery Framework document, Contractor has edited for typographic errors, completeness, and consistency. Contractor has determined Deliverable is in a suitable state of readiness for the Department's review and approval. For onboarding and training, Contractor has independently evaluated Contractor Personnel for comprehension of assigned Activities and agrees with the DFS-assigned proficiency level.
  - ii) Annual Support Services. For each completed Activity, Contractor has independently peer-reviewed Activity, performed any applicable verification or testing, corrected any defects identified, and, when appropriate, co-reviewed completed Activity with the appropriate EFSS Activity owner.
  - iii) Service Request Services. For each completed Service Request ticket, Contractor has independently peer reviewed ticket result, performed any applicable verification or testing, corrected any defects identified, and when appropriate, co-reviewed completed Service Request ticket with the identified EFSS reviewer.
  - iv) Variable Enhancement Project Deliverables. Contractor has completed minimum criteria as described in the applicable Supplemental Statement of Work.
- d. The last sentence of Attachment 1, Standard Terms and Conditions, section 6.b. Rejection of Deliverables is modified as follows: If the Department's Contract Manager, as defined in section 19.b. of this Statement of Work, does not accept the Deliverables within 30 days, they will be deemed rejected unless stated otherwise by the Department's Contract Manager or designee in writing.
- e. Attachment 1, Standard Terms and Conditions, section 6.c. Status Reports is not applicable.

## 8. Specific Financial Consequences for Nonperformance

If the Contractor fails to perform any material obligation for which it is responsible in accordance with the requirements of the Contract (including in connection with a Force Majeure Event as described in section 24, PUR 1000), or causes the Department, in good faith, to have doubt of the Contractor's ability or intent to perform

in accordance with the Contract, the Department may request a corrective action plan (Plan) from the Contractor in writing. If the Department does so, the Contractor will prepare, at no additional cost to the Department, and deliver a Plan for the Department's review and approval.

In addition to any other information the Department may reasonably request be included, the Contractor's Plan will contain at least the following information: (i) the root cause of the failure(s) or incident(s) triggering the Department's request for a Plan, or, if the root cause has not yet been determined, the actions the Contractor will take to determine the root cause(s); (ii) if a remedy is possible, the specific actions the Contractor commits to take to remedy the failure(s) or incident(s) and prevent them from recurring in the future; and (iii) the timeline for completing each step described in the Plan.

After receiving the Contractor's proposed Plan, the Department may give the Contractor notice that the Department approves the Plan as written, it may reject the Plan outright as materially deficient or unsatisfactory, or it may identify specific aspects of the Plan to be revised by the Contractor. If so requested by the Department, the Contractor will meet with the Department's designated representatives to discuss the proposed Plan. If the Department requests a revised Plan, the Contractor will prepare and submit a revised Plan for the Department's approval. If the Department approves the Contractor's Action Plan, the Contractor will carry out the steps described in the Plan, at no additional cost to the Department, in accordance with the associated timeline.

## 9. Remedies

Attachment 1, Standard Terms and Conditions, section 16, is supplemented to reflect that the following remedies apply:

- a. Step-in Rights. If the Contractor fails to comply in a timely manner with the Contractor's obligations regarding the creation or implementation of a Plan, the Department may step in and take over the creation and/or implementation of the Plan or the rectification of the failure(s) or incident(s) triggering the Department's request for a Plan, either by itself or with the assistance of one or more third-party contractors.

If the Department exercises its step-in rights, the Contractor must cooperate fully with the Department (including its Department Staff, as defined in section 20.a.i., and any third parties acting on behalf of the Department) and shall provide, at no additional charge to the Department, all assistance reasonably required by the Department as soon as possible, including:

- i) Providing access to all relevant equipment, premises and software under the Contractor's control as required by the Department (or its nominee); and
- ii) Ensuring that the Contractor Personnel, normally engaged in the provision of the work, are available to the Department to provide assistance that the Department may reasonably request.

The Department's step-in rights will end, and the Department will hand back the responsibility to the Contractor, when (and if) the Contractor demonstrates to the Department reasonable satisfaction that the Contractor is capable of resuming performance and fulfillment of the affected Contractor responsibilities in accordance with the requirements of the Contract and that the circumstances giving rise to the step-in right cease to exist and will not recur.

The Department may require the Contractor to reimburse the Department for all reasonable costs incurred by the Department (including reasonable payments made to third parties) in connection with the Department's exercise of step-in rights (Step-In Costs).

- b. Priority One Failures. The parties acknowledge that the late or nonconforming delivery of any Priority One Activity identified in the Service Delivery Framework will interfere with the timely and proper operation of the State's financial systems, to the loss and damage of the Department, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the Department as a result of any such delay. Therefore, the Contractor and the Department agree that if Contractor fails to complete a Priority One Activity according to the technical specifications included in the Activity Definition, or by the due date specified in the Definition or in the Service Delivery Framework, the Department shall be entitled to collect liquidated damages in the amount listed in the applicable Activity Definition for each day the Contractor fails to deliver the Priority One Activity.
- c. Catastrophic System Event. If the State's enterprise financial systems are unable to fully record transactions, post transactions, recall transactions, print warrants, transmit electronic files, or perform other essential functions, or if State Data is breached or exposed in any manner, the Department has the right to notify the

Contractor in writing of a Catastrophic Event. Upon notice of a Catastrophic Event, the Contractor shall task all available Contractor Personnel to assist in troubleshooting, repair, testing, data entry, or similar task, until the system is stabilized, State Data has been recovered or protected, and the Department notifies the Contractor in writing of the closure of the Catastrophic Event.

If the Department determines that the Catastrophic Event is attributable to the action or inaction of Contractor Personnel, the Catastrophic Event will qualify as a Priority One Failure and the Contractor may be subject to the liquidated damages described in section 9.b. above.

- d. Root Cause Analysis. If the Contractor believes that a reported Failure is wholly or partially due to actions of the State, the Contractor can request a Root Cause Analysis. The Contractor and the Department shall jointly investigate the Failure and, if possible, determine the root cause. If the root cause is determined to be the fault of the Contractor, the Contractor shall bear its costs of investigation and may be subject to additional liquidated damages as described in section 9.b. above. If the root cause is determined to be the fault of the State, the Contractor shall be entitled to invoice the Department for the Contractor hours expended in the investigation at the negotiated rate for Service Hours.

If the root cause is indeterminate, or if both parties contributed to the Failure, the Contractor and the Department will follow the issue resolution procedure in the Service Delivery Framework to determine a fair distribution of the costs of investigation.

- e. Notice of Failure. The Contractor is required to notify the Department of any Failure the Contractor becomes aware of related to Deliverables, operation of the State's financial system, or State Data, regardless of whether the Department observed the Failure. Except in the case of loss or breach of State Data and Systems, the Department will not impose Financial Consequences (beyond developing an Action Plan, if applicable) for a Failure that did not affect daily operations or the State's performance of essential functions. For example, if the Contractor reports a system fault that causes a Failure, but the Failure occurs on a State holiday when no attempted use of the system has occurred (manual or scheduled), and the Failure is resolved prior to the next attempted use, the Failure shall not be subject to further liquidated damages. Failures that involve loss or breach of State Data and Systems shall always be considered a Catastrophic Event.

## **10. Informal Dispute Resolution Process**

Prior to initiating the Dispute Resolution Process described in Attachment 1, Standard Terms and Conditions, section 8, all disputes between the parties shall be resolved under the issue resolution process agreed to in the Service Delivery Framework.

## **11. Payment Provisions.**

- a. Pricing. Detailed pricing is found in Attachment 3, Price Response. In general, pricing is as follows:
  - i) Contract Initiation Services. Fixed price Deliverable, billable upon completion and acceptance of applicable tasks and Activities.
  - ii) Annual Support Services. Fixed price Deliverables, billable in 12 equal monthly payments following completion and acceptance of applicable monthly Activities.
  - iii) Service Request Services. Hourly Deliverables, billable against an approved budget of hours per Service Request ticket, up to a maximum number of hours annually. Payable monthly upon completion and acceptance of Service Request tickets.
  - iv) Variable Enhancement Projects. Pricing is defined in the Supplemental Statement of Work attached to an authorizing Task Order. Pricing may be fixed price or hourly, but in all cases will reference the approved rate card found in Attachment 3, Price Response.
- b. Expenses. To be eligible for reimbursement, any expense incurred by the Contractor must be authorized by the Department in advance.
- c. Step-in Costs. If the Department identifies step in costs, the Department will continue to pay the Contractor the charges due for the products or services, provided that the Contractor reimburses the Department for the Step-In Costs. If the Contractor fails to reimburse the Department within 30 days of receipt of the Department's demand for payment of Step-In Costs, the Department is entitled to off-set such Step-In Costs against a subsequent invoice.
- d. Billing Procedures. The Contractor shall submit one (1) or more invoices to the Department monthly.

- i) One (1) invoice shall include Contractor's request for payment of Annual Support services and Service Request services. The invoice must include: a) a completed monthly calendar with applicable Evidence of Work demonstrating Activity completion, or acceptance review; and b) a register of completed Service Request tickets with applicable Evidence of Work demonstrating completion, or acceptance review.
- ii) The Contractor shall send a separate invoice for each Variable Enhancement Project, as needed. The Contractor shall include supporting information as required by the Supplemental Statement of Work.

## 12. Insurance

- a. Attachment 1, Standard Terms and Conditions, section 10.a. Required Coverage, is replaced with:
  - i) Commercial general liability coverage. By execution of this Contract, unless the Contractor is a state agency or subdivision as defined by subsection 768.28(2), F.S., the Contractor shall provide adequate commercial general liability insurance coverage (not less than \$1,000,000 per occurrence/\$2,000,000 aggregate). Contractor shall hold such liability insurance at all times during the Contract. A self-insurance program established and operating under the laws of the State may provide such coverage. The Department shall be named as an additional insured on any general liability policies.
  - ii) The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S., and employer's liability insurance with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any Contract work.
  - iii) Fidelity Employee Insurance and Computer Crime Insurance providing coverage for loss to the State arising from fraudulent or dishonest acts committed by the employees of the Contractor or its agents, acting alone or in collusion with others, in a minimum amount of \$1,000,000 per loss. The Department will be added by endorsement or included under a blanket endorsement to this coverage as additional insureds.
  - iv) Errors and Omissions Liability Insurance, including Privacy and Internet/Network Liability, with a minimum limit of \$1,000,000 per occurrence and in the aggregate, which can be satisfied by primary or excess professional limits, providing coverage for errors and omissions arising out of the performance or non-performance of the Services by the Contractor and/or its Subcontractors.
- b. Attachment 1, Standard Terms and Conditions, section 10. is modified to add the following:
  - i) The insurers selected by the Contractor shall have an A.M. Best rating of A- or better and a financial size category of IX or higher, or as otherwise approved in writing by the Department, or, if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency, and shall be licensed, qualified and doing business in Florida. The State is exempt from and in no way liable for any sums of money which may represent or be interpreted as a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the Contractor.
  - ii) Except as expressly provided above or agreed to by the Department in a separate writing, no self-insurance coverage shall be acceptable unless the Contractor is licensed or authorized to self-insure for a particular coverage listed above in the State, or is an insured member of a self-insurance group that is licensed to self-insure in the State.
  - iii) Except where the Department has approved otherwise in writing, the Contractor shall require each of its Subcontractors hereunder to purchase and maintain the insurance coverages specified above in connection with the performance of work by such Subcontractors. The failure of a Subcontractor to comply with such insurance requirements does not limit the Contractor's liability or responsibility.
  - iv) The Contractor shall, and will ensure that its Subcontractors shall, name the Department and the State as additional insureds under the Contractor's or the applicable Subcontractor's Commercial General Liability Insurance (section 12.a.), and Fidelity Employee Insurance and Computer Crime Insurance (section 12.a.). Coverage for the additional insureds shall be primary and non-contributory with any other insurance coverage (including any deductible or self-insured retention) any additional insured may have. The coverage for the additional insureds shall be at least as broad as the coverage afforded the Contractor or applicable Subcontractor under its policies of insurance.
  - v) Within 20 Business Days after the date of execution of this Contract, the Contractor shall furnish to the Department certificate(s) of insurance verifying the above insurance policies. If requested at any time by the Department, the Contractor shall provide the Department with complete copies of the policies required to be maintained hereunder, including any applicable endorsements. The Contract number must

be shown on each certificate of insurance. The Department shall be given at least 20 Business Days prior written notice of termination, non-renewal or reduction in limit or in scope of coverage of such policies. Neither failure by the Department to require proof of insurance from the Contractor nor the contents of a certificate of insurance provided by the Contractor shall be deemed a waiver of the Department's or any other additional insured's rights or the Contractor's obligations regarding the provision of insurance under this Contract.

- vi) Within 20 business days following the execution of: (i) this Contract and; (ii) any Subcontract, and every year thereafter, the Contractor shall provide evidence that the Department, agents, officers, and State agencies are additional insureds under each applicable policy. Neither failure by the Department to require proof of insurance from the Contractor nor the contents of a certificate of insurance provided the Contractor shall be deemed a waiver of the Department's or any other additional insured's rights or the Contractor's obligations regarding the provision of insurance under this Contract.
- vii) The Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made policies, shall secure tail coverage for not less than five years following the expiration or termination of this Contract for any reason. The minimum limits of coverage specified above are not intended, and shall not be construed to limit any liability or indemnity of the Contractor under this Contract to any indemnified party or other persons. The Parties do not intend to shift all risk of loss to insurance. The Contractor's obligation to maintain insurance coverage in specified amounts will not act as a limitation on any other liability or obligation which the Contractor would otherwise have under the Contract, nor to limit the Department's rights to exercise any and all remedies available to the Department under this Contract, at law or in equity.
- viii) Upon request, the Contractor shall provide to the Department (and shall cause its Subcontractors to provide to the Department) certificates of insurance evidencing the required coverages, with the following provisions:
  - Notice of Insurer Attempt to Cancel: The Contractor shall not allow its insurer to cancel the insured's coverage or allow it to expire without reasonable prior written notice being given to the Department.
  - Notice of Failure to Pay Premium: The Contractor shall give or require prompt notification to be given to the Department of any failure by the Contractor to pay premiums or of any other change in the status or scope of the required coverage. The Contractor shall give or require reasonable prior written notice to be given to the Department in advance of any changes in coverage.
- ix) If the Contractor fails to pay any premium for required insurance as specified herein, or if any insurer cancels or significantly reduces any required insurance without the Department's written consent, at the Department's election (but without any obligation to do so) after the Department has given the Contractor at least 20 Business Days written notice, the Department may pay such premium or procure similar insurance coverage from another company or companies; and at the Department's election, the Department may deduct the entire cost (or part thereof) from any payment due the Contractor, or the Contractor shall pay the entire cost (or any part thereof) upon demand by the Department.

### **13. Contractor Personnel**

- a. Attachment 1, Standard Terms and Conditions, section 28.a., Subcontracting, is modified to permit the Contractor to utilize subcontractors in the provision of the services of the Contract, subject to the terms of this Statement of Work and applicable sections of Attachment 1, Standard Terms and Conditions.
- b. The Contractor is solely responsible for the actions of its Contractor Personnel related to the performance of Activities under this Contract. The Contractor is therefore solely responsible for i) determining and enforcing appropriate pre- and post- employment screening requirements, including appropriate background checks or reference checks; ii) monitoring Contractor Personnel to ensure compliance with the requirements of this Contract; and iii) determining whether Contractor Personnel present an appropriately low level of risk the State Data and Systems.
- c. The Department does not and will not validate or make a determination of the appropriateness of any Contractor Personnel. By permitting Contractor Personnel to access State Data or systems, the Contractor certifies that Contractor has taken all commercially reasonable measures to ensure the resource is in full compliance with the following criteria and are, at a minimum, in compliance with applicable security and

administrative requirements of the Department. As described above, the Contractor has the discretion and responsibility to impose any additional requirements the Contractor deems necessary to ensure resources meet all the terms of this Contract.

- i) The Contractor Personnel is legally authorized to work within the United States.
  - ii) The Contractor Personnel is physically located within United States territory.
  - iii) The Contractor Personnel has not been arrested, charged, tried, or convicted of a crime that a reasonable person would identify as presenting a risk to the Department or the protection of State Data.
  - iv) The Contractor Personnel has not been arrested, charged, tried, or convicted of any crime of a financial nature.
  - v) The Contractor Personnel has not been removed from or asked to leave any previous client or employer for violating any policy related to information security, physical security, allowable data or system access, or for any other policy violation that could indicate a potential risk to the State of Florida.
  - vi) The Contractor Personnel meets the minimum knowledge, skills, and abilities (KSAs) to be eligible to be trained to perform assigned Activities according to the Services Delivery Framework document.
- d. The Contractor will ensure that no employee, subcontractor, or agent has direct or indirect access to any State Data or Systems unless that employee, subcontractor, or agent has met the minimum criteria listed in this sub-section.
- e. Replacing Rated Contractor Personnel. **This section is to be revised during negotiations.**

During Negotiations, Respondent and EFSS will negotiate the process for the Department Staff to re-assume Primary responsibility for an Activity, and the conditions under which this might occur.

Individual occurrences would be considered minor scope changes and follow the procedures defined in the Services Delivery Framework, however, the State would incur additional expense to re-train Contractor Personnel, as well as temporarily reducing the value of the Contract (if the Activity in question falls under the Annual Service work stream).

#### 14. Assurances

- a. The Contractor shall provide full disclosure and promptly notify the Department of (1) a change of control in Contractor ownership; (2) any criminal litigation, proceedings or Securities Exchange Commission, public agencies, and law enforcement investigations involving the Contractor, or any of the foregoing entity's then-current officers or directors; or (3) any civil litigation, arbitration or proceeding to which the Contractor is a party, and which involves:
  - i) Software systems development or systems integration projects and which either relates to an amount in excess of \$1,000,000 or might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any Subcontractor hereunder; or
  - ii) A claim or written allegation of fraud against the Contractor or, to the extent the Contractor is aware, any Subcontractor hereunder, by a governmental or public entity arising out of their business dealings with governmental or public entities.
- b. All notices under this section must be provided to the Department within 30 Business Days following the date on which the Contractor first becomes aware of any such litigation, investigation, arbitration or other proceeding (collectively, a "Proceeding"). Details of settlements, which are prevented from disclosure by the terms of the settlement, may be annotated as such.
- c. In the event that any Proceeding disclosed to the Department pursuant to this section, or of which the Department otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:
  - i) The ability of the Contractor (or a Subcontractor) to continue to perform the Contract in accordance with its terms and conditions, or
  - ii) Whether the Contractor (or a Subcontractor), in performing Services for the State, is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of the Contract or a violation of Law

then the Contractor shall be required to provide the Department all reasonable assurances requested by the Department to demonstrate that the Contractor and/or its Subcontractors hereunder will be able to continue



to perform the Contract in accordance with its terms and conditions. Failure by the Contractor to comply with the terms of the above Disclosure subsection shall constitute a material breach of the Contract and shall be grounds for termination of the Contract in accordance with Attachment 1, Standard Terms and Conditions, section 11. Termination, at the Department's reasonable discretion.

- d. All notices under this section must be provided to the Department within thirty (30) Business Days following the date on which the Contractor first becomes aware of any such Proceeding. Details of settlements, which are prevented from disclosure by the terms of the settlement, may be annotated as such.
- e. The Contractor represents that there is no action, suit, proceeding, inquiry or investigation at law or equity, before or by a court, governmental agency, public board or body, pending or threatened, to the best of the Contractor's knowledge, that would materially prohibit, restrain or enjoin the execution or delivery of the Contractor's obligations, diminish the Contractor's obligations, or diminish the Contractor's financial ability to perform the terms of the Contract. During the term of this Contract, if any of the aforementioned events occur, the Contractor shall immediately notify the Department in writing. The Contractor shall remain adequately capitalized during the term of the Contract. The Parties agree that failure to comply with this section shall constitute a material breach and shall be grounds for termination of the Contract in accordance with Attachment 1, Standard Terms and Conditions, section 11. Termination.

### **15. Contractor's Representations and Warranties**

The Contractor represents and warrants to the Department as follows:

- a. The Contractor has the requisite power and authority to enter into and perform the Contract without the need to seek any further approvals or authorizations.
- b. All written information furnished to the Department by the Contractor in connection with the Contract, including the Contractor's Response, is to the best of the Contractor's knowledge and belief true, accurate, and complete, and does not omit any material facts the omission of which would cause the Response to be misleading.
- c. The Contractor will perform the Services in a manner that complies with all applicable laws, rules or regulations, and contracts with third parties, as further specified in Attachment 1, Standard Terms and Conditions, section 23, Compliance with Federal, State, and Local Laws. The Contractor will be responsible for obtaining and maintaining at its expense any business licenses or permits required in the operation of its business and performance of the Services.
- d. The Contractor is not (as of the Effective Date of the Contract) under any obligation or restriction that would interfere in any way or conflict with it providing the Services and performing its other obligations under the Contract, and the Contractor will not assume any such obligation or restriction during the Term; provided, however, that if despite the foregoing representation and warranty, the Contractor or any Contractor Personnel becomes aware of an actual or potential conflict of interest relating to the Contract, the Contractor will immediately inform the Department and, if requested by the Department, cease any conflicting work or assignment or otherwise resolve the conflict.
- e. Prior to entering into the Contract, the Contractor has conducted all due diligence necessary for the Contractor to satisfy itself that it is able to provide the Services under the Contract in accordance with the requirements of the Contract for the charges set forth herein.
- f. The Contractor will provide the Services in accordance with the reasonable direction provided by the Department in order to minimize disruption to State operations.
- g. The Contractor is qualified and registered to conduct business in all locations where required.
- h. The Services will be of the type and quality described in the Statement of Work and will be performed by adequate numbers of qualified individuals with suitable training, education, experience, and skill, in a diligent and professional manner and in accordance with applicable industry and Department standards and practices.
- i. The Services shall not infringe upon the intellectual property rights, or any other proprietary rights, of any third party.
- j. Each Deliverable delivered under the Contract will be free from all liens, claims, and encumbrances and will, in all material respects, conform to and perform in accordance with its requirements and specifications as set

forth in the Statement of Work or other Contract Attachments, or as developed and agreed during the course of the Contract.

- k. Contractor will ensure Contractor Personnel comply with the Contractor's security requirements and processes as needed to comply with the data protection requirements of the Contract.
- l. Contractor Personnel will not intentionally, knowingly, or negligently introduce or allow the introduction of any Malware into State Data or Systems or into Deliverable. If Malware is found to have been introduced into the State Data or Systems or into a Deliverable as a result of a breach of the foregoing warranty, the Contractor will be required to use best efforts, at no additional charge to the Department, to assist in eradicating the Malware and reversing its adverse effects and, if the Malware causes a loss of State Data or operational efficiency, to assist the Department (and/or applicable interfacing users authorized by the Department) in mitigating and reversing such losses.
- m. Neither the Contractor nor any Subcontractor will activate, or cause or permit to be activated, any code, devices, mechanisms, or processes that would have the effect of disabling, shutting down, or otherwise disrupting all or any portion of the Solution or the State's operating environment.
- n. If, under the Contract, the Contractor procures any equipment, software or other products for the State (including equipment, software and other products manufactured, re-marketed or otherwise sold by the Contractor under the Contractor's name), then the Contractor shall assign or otherwise transfer to the Department or its designees, or afford the State the benefits of, any manufacturer's warranty for such products.
- o. Accessible Electronic Information Technology. The Contractor shall ensure that, as to its products and services and those it develops for the Department, the electronic and information technology accessibility requirements of Section 508 of the Rehabilitation Act Amendments, 29 USC 794 are met, if applicable. The Electronic and Information Technology standard can be found at: <http://www.section508.gov/>. In accordance with Rule 60-8.003, F.A.C., vendors submitting responses to this solicitation must provide electronic and information technology resources in complete compliance with the accessibility standards provided in Rule 60-8.002, F.A.C. These standards establish a minimum level of accessibility.

#### **Disclaimer**

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY.

#### **16. Advertising, Media Releases, Endorsements, and References**

Except for disclosures and notices made pursuant to applicable law, the Contractor shall submit to the Department all press releases and other forms of publicity relating to the Project or the Contract, or mentioning or implying the names of any member of the Project Team, and further agrees not to publish or use press releases or other forms of publicity concerning the Project or the Contract without obtaining the Department's prior written consent, which will not be unreasonably withheld or delayed. This provision shall not apply to the Contractor's marketing materials that merely list the Department as a client or to the re-publication of any material that already has been placed in the public domain. All communications with the news media pertaining to the subject of the Project or the Contract shall be referred to the Department's Contract Manager.

The Contractor agrees to permanently refrain from using or mentioning its association with the Department in advertisements, letterhead, business cards, etc. The Contractor's services to the Department may be generally stated and described in the Contractor's professional resume. The Contractor may not give the impression in any event or manner, that the Department recommends or endorses the Contractor. The Contractor may not use the Department as a reference without prior approval of the Department.

#### **17. Contract Changes**

- a. Change Amendments; Waivers

This Contract may not be modified, amended, extended, or augmented, except by a writing executed by each Party's duly authorized representative, and any breach or default by a Party shall not be waived or released other than in a writing signed by the other Party's duly authorized representative. If a Party waives any right, power or remedy, the waiver will not waive any successive or other right, power or remedy that Party may

have. No oral modifications to this Contract will be valid. Any terms and conditions that the Contractor provides that attempt to modify the Contract or add additional restrictions of usage, license conditions, or requirements have no effect and are not enforceable under the Contract unless agreed to as part of a Contract amendment.

Any changes that result in a cost increase, above the work stream not to exceed amount for a given year, will require a Contract Amendment. If the scope of the Services under the Statement of Work is subsequently reduced by the State, the Parties shall negotiate, through the agreed Change Process as documented in the Service Delivery Framework, an equitable reduction in the Contractor's price under such Statement of Work commensurate with the reduction in scope.

b. Changes to the Services

The Department's Contract Manager can approve minor changes that do not result in a cost increase without issuing a Contract Amendment. Such approval must be in writing. Both the Department and the Contractor may request a change. The Department's Contract Manager shall evaluate the request using the procedure defined in the Service Delivery Framework and determine whether the request can be approved by the Department's Contract Manager or if an Amendment is required. If an Amendment is required, the Contractor shall provide its proposed Amendment. The Department may accept the Contractor's proposal for change, reject it, or reach another agreement with the Contractor.

c. Implied Services

Any services, functions, products and materials not specifically described in the Statement of Work or elsewhere in the Contract as Contractor responsibilities which are reasonably required for the proper performance and provision of the Services described in the Statement of Work or elsewhere in the Contract, will be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described in the Statement of Work (i.e., they will be provided as part of the contracted Services at no additional charge to the Department and will not require a Contract Amendment).

d. Amendment and Change Scheduling

The Contractor shall not begin performing services pursuant to a proposed change before receiving the Department's written approval of the change or the executed Contract Amendment. If the Contractor begins such services prior to the approval of the change or the execution of the Contract amendment, such activities shall be considered to be performed gratuitously by the Contractor, and the Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. Any Contract amendment resulting from a Change Process under this Contract shall list (or indicate by reference to the appropriate Contract Attachment) the prices for all Services, equipment, and commodities to be provided thereunder. The Contractor may invoice the Department for a Deliverable as set forth in the Contract Amendment only after receiving written Acceptance from the Department of such Deliverable. The most recent Contract amendment will take precedence over other conflicting provisions of this Contract and any previous Contract Amendments.

## **Statement of Work Part Two – Description of Services to be Performed**

### **18. Contract Approach**

EFSS anticipates organizing this Contract into three (3) phases (Initiation, Execution, and Closure). Within the Execution phase, EFSS will organize the Services into three (3) work streams. Each work stream has unique authorization, staffing, management, oversight, communication, pricing, invoicing, and performance requirements.

Work stream one – Annual Support: Data processing and routine application or user support Activities that must be performed daily, weekly, monthly, quarterly, annually, or on another cyclical basis. These Activities are included in the Contractor's fixed price Annual Support obligation described in Attachment 3, Price Response.

Work stream two – Service Requests: Service request Activities can be reasonably defined, but timing and frequency will vary. Generally, service requests can be fully resolved in less than 200 hours of effort, although this is not a fixed requirement. These Activities are included in the scope of the Contractor's Service Hours budget described in Attachment 3, Price Response.

Work stream three – Variable Enhancements: Variable enhancements and modifications covering the duration of the Contract cannot be defined prior to its execution. EFSS therefore has established a process for proposing, reviewing, costing, approving, and authorizing enhancement work on a bespoke basis as business needs arise. In general, this work stream addresses tasks of sufficient complexity or risk that EFSS deems it prudent to manage the tasks in a Project. Except as otherwise stated in the Statement of Work Part One, the Department shall order Variable Enhancement Projects by issuing a Task Order (TO). TOs establish the specific deliverables, costs, payment schedules, start/completion dates, etc. for specific projects. Such additional terms shall not conflict with the terms and conditions established by the Statement of Work Part One. Variable Enhancement Projects will be priced using the Negotiated Rate Card found in Attachment 3, Price Response.

The Department envisions the Contract “phasing in” over a period of time. Initially, the Department will retain Primary responsibility for most of the Activities within the Annual Support and Service Request work streams. Contractor Personnel will be paired with Department Staff for training, documentation, and quality assurance.

As Contractor Personnel gain (and can demonstrate) proficiency in each Activity, the Primary and Secondary responsibility for the Activity will transfer to the Contractor. The Contractor then becomes responsible for the successful completion of the Activity and Department Staff perform quality control / client acceptance functions. At this point, appropriate performance measures and service level agreements take effect.

Similarly, Projects defined under the Variable Enhancements work stream will begin with a shared responsibility model, the details of which will be clearly defined in the Project Plan for each Variable Enhancement Project. An example of this shared model might have Department Staff initially taking on requirements gathering, functional design, technical design, code review, and acceptance testing, while Contractor Personnel is responsible for coding and unit testing. As the Contractor gains experience with the State, the Contractor would take on additional roles within the Project, until Department Staff are only performing quality control and Acceptance tasks.

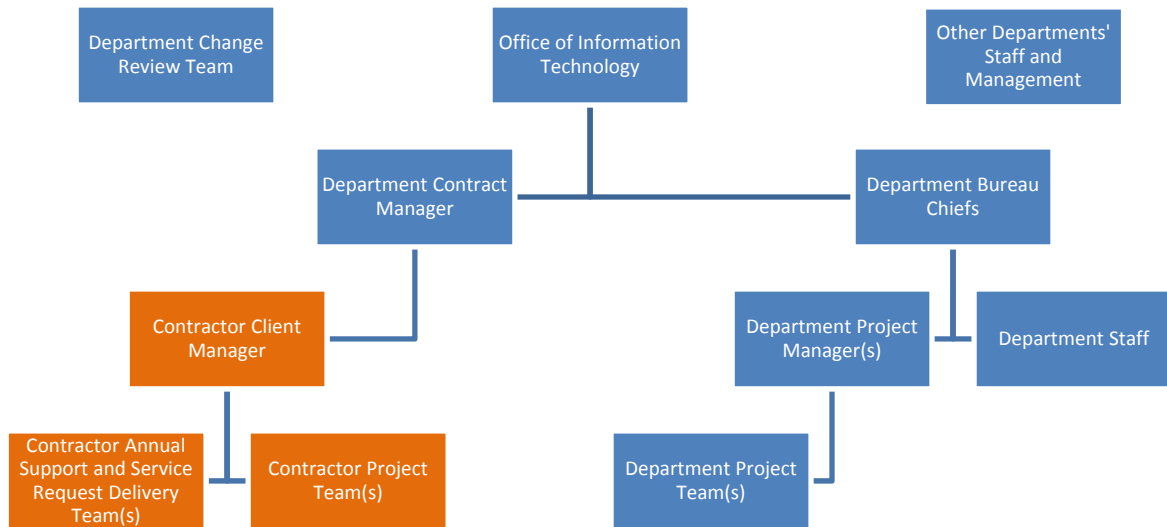
The Department intends for the Contractor to eventually be solely responsible for all routine support and Service Requests, and the majority of enhancement Project Activities. Department Staff will retain only Primary responsibility for quality control and escalated support or troubleshooting Activities that the Contractor has been unable to resolve.

By the time Florida PALM enters its initial integration stage in two to three years, the Contract structure should provide sufficient capacity within the Department to enable EFSS staff to assist the Florida PALM team. OIT staff will be needed as subject matter advisors, to plan for the transition from the legacy systems to Florida PALM, to advise on the re-use of existing Department assets, and to assist in the training and transition of FLAIR users to Florida PALM.

## **19. Contract Administration and Management**

As described above, Contractor Activities within the execution phase fall within three (3) work streams. Each work stream has its own management, control, and Performance Measure requirements. In addition, the Department and the Contractor will have overall Contract Management responsibilities that will occur in all three (3) Contract phases. This section and Section 20 describe the Contract phases and work streams conceptually and address overall Contract Management. Section 21 then defines the scope of Activities to be performed within each work stream.

- a. **Roles and Responsibilities.** The organizational structure below is one option for meeting the Department’s expectation for Contract Management. The following information may be superseded by roles and responsibilities defined in the Services Delivery Framework, if any.



The Department’s governance structure and stakeholders include:

Role	Responsibility
Project Sponsor (the DFS Chief Information Officer)	Responsible for funding and the DFS resources. Responsible for setting strategic direction in the use of these contracted services. Department Contract Manager’s contact for escalation.
Department Change Review Team	Responsible for reviewing proposed Service Requests or Variable Enhancement requests and recommending whether the Department Contract Manager should authorize the Contractor to perform the work. Responsible for assigning verification, quality assurance, or acceptance testing work to Division Bureau Chiefs. Responsible for designating Department Project Team members for Variable Enhancement projects, as needed.
Other Department Staff and Management	Responsible for assisting Department Bureau Chiefs, Department Staff, or Project Teams with requirements, design, testing, validation, or other Activities deemed necessary to implement Service Request or Variable Enhancement Activities.
Department Contract Manager	Has authority to make or obtain contractual decisions on behalf of the Department. Responsible for effective contract monitoring, including enforcement of performance measures. Responsible for reviewing and communicating Departmental approval of proposed hours or scope for task-based Activities. Responsible for dispute resolution. Department Bureau Chiefs’ or Department Project Managers’ contact for escalation. Reviews, verifies and approves invoices from the Contractor.

Role	Responsibility
	Verifies management of Contract Activities according to the Services Delivery Framework.
Department Bureau Chiefs	Manage OIT staff and staff augmentation resources to deliver Activities according to the Services Delivery Framework. Ensure that OIT staff and staff augmentation resources are achieving their performance objectives.
Department Staff and Staff Augmentation Resources collectively "Department Staff"	Responsible for day-to-day operations and maintenance of the State's Financial Systems. Responsible for training Contractor Annual Support and Service Request Delivery Teams in the operation, maintenance, and enhancement of the FLAIR systems and for assigning Proficiency Levels to members of those teams. Responsible for resolving issues escalated from the Contractor's Annual Support and Service Request delivery teams. Responsible for identifying Service Request and Variable Enhancement needs and communicating those to the Change Review Team. When appropriate, may be assigned to one or more Department Project teams to undertake a Variable Enhancement Project.
Department Project Manager(s)  As needed	IF A PROJECT IS DEFINED: Manages day-to-day execution of the Project during implementation. Coordinates Activities and communication between Project team members. Interfaces with Contract Manager to review and approve Contractor Deliverables. Acts as liaison between the Project team, Project support, the steering committee (if any) and Project sponsor.
Department Project Team(s)  As needed	IF A PROJECT IS DEFINED: Responsible for successful execution of Project Tasks. May be Division Staff, Other Department Staff and Management, or other contractors (see "Cooperation with the Department and Other Entities"). Reports to the Department Project Manager assigned to this Project.
Departmental Contract Support	Department Legal, Human Resources, Procurement, Finance and Accounting and Budget staff that provide additional Contract support as necessary.

The Contractor's governance structure and stakeholders include:

Role	Responsibility
Contractor Client Manager	Single day-to-day point of contact for the Department in interfacing with the Contractor. Responsible for successful performance of all Contract Activities. Responsible for communicating Contractor-identified Service Request or Variable Enhancement needs to the Department Contract Manager. Authorized to represent the Contractor in Contract-related discussions. Responsible for coordinating with any internal Contractor resources necessary for all Contract Management related tasks, including accurate and timely submission of invoices and ensuring that all Contractor work is appropriately authorized by the Department prior to commencement.

Role	Responsibility
Contractor Annual Support and Service Request Delivery Team(s)	<p>One or more teams of resources, including necessary management, responsible for executing Annual Support or Service Request Activities specified in the Contract.</p> <p>Responsible for working closely with Department Staff to ensure Annual Support Activities are well defined, understood, adequately documented, and executed as expected.</p> <p>Responsible for fulfilling Service Requests and troubleshooting performance or operational issues. Responsible for escalating issues team is unable to resolve to the Department.</p> <p>Responsible for identifying Service Requests and / or Variable Enhancement needs and communicating those to the Contractor Client Manager.</p>
Contractor Project Teams(s)  As needed	<p><u>IF A PROJECT IS DEFINED:</u></p> <p>A Contractor Project Team will be led by a Contractor Project Coordinator (CPC).</p> <p>The CPC is to be a Project Management Institute (PMI) certified Project Management Professional (PMP), or hold a demonstrably similar knowledge-base. Regardless of whether a Contractor Project Coordinator is a PMP or not, the CPC is required to know, understand, and follow the Project Management Book of Knowledge (PMBOK).</p> <p>The Contractor Project Team is responsible for the successful execution of Project Tasks and completion of all obligations of a particular Task Order authorizing a Project.</p>

- b. Contract and Client Managers. Contract Management is the responsibility of the Department and the Contractor.

The Contractor will designate a Client Manager to oversee Contractor Activities on this engagement. This person may not be replaced without the prior consent of the Department. The Contractor Client Manager (CCM) is responsible for the successful delivery of the Contractor’s services in accordance with the Contract and specifically the Statement of Work. The Contractor will manage all Contractor Personnel as specified in the Contract and according to the requirements in the SDF. The CCM’s essential responsibilities include:

- i) Act as liaison between the Contractor and the Department.
- ii) Maintain Framework, updating approved revisions in “owned” chapters as needed.
- iii) Provide for and provision Contractor Personnel as needed to complete assigned Activities.
- iv) Ensure Contractor Personnel are supervised as needed to comply with the Contractor’s policies and procedures, enabling the Contractor to meet its responsibilities as defined in the Contract.
- v) Ensure Contractor Personnel accurately follow processes defined in the Framework, including processes for submitting completed Activities for review, and ensuring that the Department approves Service Request Activities prior to commencing work.
- vi) Ensure monthly Contractor invoices are submitted with all required documentation needed for approval.
- vii) Provide cost estimates for Department requested Variable Enhancement Projects.
- viii) Provide a Contractor Project Coordinator to coordinate approved Variable Enhancement Project Activities.
- ix) Meet with the Department and inform Contractor management on Department contractual issues as needed.
- x) Resolve any contractual problems.

EFSS will designate a Department Contract Manager (DCM) whose primary responsibility is quality assurance over the process that governs the management and coordination of Contract Activities. The DCM will ensure that appropriate documentation of Activities is occurring, appropriate approvals are obtained, resources are assigned and trained, and invoices are submitted according to the Contract’s requirements. In addition, The DCM shall be authorized to make or obtain contractual decisions on behalf of the Department, and shall communicate these decisions to the Contractor in writing. The DCM’s essential responsibilities include:

- i) Act as liaison between the Department and the Contractor.
- ii) Maintain Service Delivery Framework, updating approved revisions in “owned” chapters as needed.

- iii) Coordinate Department acceptance reviews of all completed Annual Support Activities, ensuring that appropriate Department and Department Staff have verified successful completion of such Activities within appropriate performance parameters.
- iv) Provide to the Contractor monthly written acceptance of Annual Support Activities successfully performed by the Contractor.
- v) Ensure all Service Request Activities are appropriately entered as service requests in the Department's ticketing system, Remedy.
- vi) Provide written pre-approval for expenditure of Service Hours on Service Request Activities, through the Remedy ticketing system.
- vii) Provide appropriate access to Department facilities, systems, applications, or other resources, as needed and appropriate for Contractor Staff to perform Contract Activities.
- viii) Review monthly Contractor invoices for compliance with required pre-approvals, performance measures, etc., and submit approved invoices for processing and payment.
- ix) Coordinate with the Contractor to obtain cost estimates for Change Review Team-approved Variable Enhancement Requests. Create Task Order for approved Variable Enhancement Projects.
- x) Request a Department Project Manager to coordinate all approved Variable Enhancement Project Activities.
- xi) Communicate approval or rejection of Contractor Deliverables as appropriate.
- xii) Meet with the Contractor and inform Department management on Contractor contractual issues as needed.
- xiii) Resolve or coordinate resolution of any contractual problems.

## 20. Contract Delivery

EFSS recognizes three (3) distinct phases of this contract: Initiation, Execution, and Closure. Within each phase, the Department and the Contractor have specific objectives, responsibilities, and Deliverables.

- a. Initiation Phase. During the Contract Initiation phase, the Contractor and the Department will finalize how the Contract Activities will be managed, document these processes in the Services Delivery Framework document, and on-board Contractor Personnel.
  - i) Services Delivery Framework. The Framework describes in detail how each work stream is defined, executed, managed, monitored, reviewed, accepted, and invoiced. The Contractor and Department both own chapters within the SDF, though the document must be mutually agreed-to. The SDF is a binding contractual document. Each mutually-approved revision is incorporated into the Statement of Work and may clarify or provide greater detail on Contractual obligations (for example, performance measures), however nothing in the Framework should be interpreted to supersede the Contract in case of conflict.

Terms are defined in Addendum C, Glossary. The following definitions are duplicated here for ease of reference:

Activity Definition: An Activity Definition (example: "Certified Forward Closeout") includes the set of tasks that comprise the Activity, the Activity's pre- and post- state, acceptance criteria, acceptance review process, minimum knowledge, skills, and abilities that Contractor resources must have before the Department will train the resource(s), and the milestones associated with each Proficiency Level.

Primary / Secondary: Terms that indicate which party (the Department or the Contractor) is accountable for the successful completion of an Activity. Accountable parties may utilize any resource allowable to execute the Activity (including Contractor Personnel if the Department is Primary and vice versa), but ensuring the completion of the task accurately, completely, and in agreement with the Activity Definition (if one exists), or commonly accepted practice, is the sole responsibility of the Primary accountable party. When the Contractor is assigned Primary accountability for an Activity, the Contractor's performance of that Activity, including any potential financial consequences, is measured according to the terms of the Contract or applicable Activity Definition.

Proficiency Level Rating: An individual rating based on the ability Contractor Personnel has demonstrated to independently, accurately, reliably, and securely execute a given Activity. All Contractor Personnel will begin at "Level one" and "level up" as they meet applicable milestones for their assigned Activity. Ratings are as follows, and the key milestones associated with each level are included in the Activity Definitions:



Level one: Contractor Personnel has the required Knowledge, Skills, and Abilities (KSAs) to learn the Activity, but no experience with the State Data and Systems. OIT is Primary (accountable) for the Activity.

Level two: Contractor Personnel has been trained on the Activity, and can perform the Activity with close supervision of OIT staff. OIT has Primary accountability for the Activity.

Level three: Contractor Personnel is independently performing Activity. OIT staff review results / output of each Activity instance individually. Contractor has Primary accountability for Activity. The Contractor is responsible for training subsequent Contractor Personnel in the Activity.

Level four: Contractor Personnel is independently performing Activity. OIT staff review results / output collectively through reports, statistics, or other evidence. The Contractor has Primary accountability for Activity. The Contractor is responsible for training subsequent Contractor Personnel in the Activity.

- ii) On-boarding Contractor Personnel. On-boarding involves orienting Contractor Personnel to the Department’s organization, identifying which work stream(s) the Contractor Personnel will be assigned to, identifying which Activity(ies) the Contractor Personnel will be assigned to, and training the Personnel on executing those Activity(ies). On-boarding will occur primarily within the Initiation phase, but can occur during Execution on an as-needed basis.

The Contractor is responsible for selecting qualified personnel who have knowledge and experience appropriate to the Activities the Contractor assigns them to. The Department understands and expects that Contractor Personnel will require training by Department staff to successfully complete maintenance and enhancement tasks on the FLAIR applications. Contractor time invested into making Contractor Personnel available for training should be included in the Contractor’s firm fixed price for Initiation activities.

During Initiation, the Contractor will assign Contractor Personnel to Annual Support or Service Request Activities and work with the Department to pair Contractor Personnel with Department staff member(s) who currently perform these Activities. The Contractor may assign multiple Contractor Personnel to learn a given Activity, but the maximum number of Contractor Personnel that can be trained in a given Activity will be limited by the experience of the assigned Contractor Personnel and the number of Department staff members available to train Personnel in that Activity.

The Department staff member(s) will assess the Contractor Personnel’s skills, and provide an estimate of the duration of training required. The Department staff members will then train the Contractor Personnel in the performance of the assigned Activity(ies).

As the Contractor Personnel progress in training, the Department staff member(s) assigned to train Contractor Personnel will assess and assign their FLAIR Proficiency Levels. Any disputes regarding the level assigned to Contractor Personnel will be escalated to the Department Contract Manager and the Contractor Client Manager, or according to the conflict resolution process defined in the SDF.

Once Contractor Personnel achieve a rating of level three (Rated Personnel), the Contractor becomes the Primary for that Activity. From this point forward, the Contractor is responsible for ensuring Contractor Personnel maintain the necessary Proficiency Level in that Activity. This includes responsibility for cross-training other Contractor Personnel as needed, succession planning, and training should Rated Personnel discontinue work under the Contract for any reason.

iii) Responsibilities Summary – Initiation Phase

Task	Contractor Accountability	Department Accountability
Create the Service Delivery Framework	Primary	Secondary
Document updated roles and responsibilities	Secondary	Primary
Document communications plan	Secondary	Primary
Document risk and issue management plan	Primary	Secondary
Document conflict resolution and escalation process	Secondary	Primary
Document Change Review Team structure, processes, and templates	Secondary	Primary

Task	Contractor Accountability	Department Accountability
Document invoice submission process and template requirements.	Secondary	Primary
Document record retention requirements for compliance with Florida sunshine laws.	Secondary	Primary
Annual Support work stream: Define Activity calendar, assigned Contractor Personnel, assigned Department Staff trainers	Primary	Secondary
Service Request work stream: Document process for provisioning Service Request Activities (including budget management, approvals, review, and acceptance process)	Secondary	Primary
Variable Enhancement work stream: Document process for provisioning Variable Enhancement Projects (including defining scope, deliverables, budget, and obtaining approvals)	Secondary	Primary
Document minimum project management requirements for managing Variable Enhancement Projects, including: Project charter Project scope Project schedule Project work breakdown structure Project budget Project communications Project risk management plan Project issue escalation and resolution	Primary	Secondary
Review and request revisions or clarifications to Activity Definitions as needed.	Primary	Secondary
Train Contractor Personnel in execution of Annual Support Activities and Service Request Activities.	Primary for Trainees	Primary for Trainers
Provide the Contractor access to the Department's infrastructure, including server and operating system, network connectivity, database software and tools, and data storage as needed.	Secondary	Primary

b. Execution Phase

In the Execution phase, the Contractor performs all of the functions described in this Statement of Work, according to the requirements of the Contract and the Framework. All work performed under the Execution phase falls within one of three work streams. Work streams do not overlap.

i) Annual Support Work Stream Overview

Annual Support Activities are generally well-known, well-defined, and occur at predictable and repeatable intervals of time. Examples of Annual Support Activities might be “running the year end closure process” or “providing customer service support to Agency users.”

Annual Support Activities are performed by the Contractor according to an Annual Support Activity calendar, and the Contractor provides applicable Evidence of Work to the Department Contract Manager with the Contractor's monthly invoice. Annual Support Activities are provided by the Contractor under a firm, fixed annual price, payable in equal installments in the month following Contractor's services. Costs are further described in Attachment 3, Price Response.

Activities to be included in Annual Support will be reviewed annually by the Contractor and the State.

The Contractor is responsible for independently managing, planning for, and executing scheduled Annual Support Activities according to the Activity calendar.

ii) Service Request Work Stream Overview

Service Request Activities are generally well-defined, but occur at unpredictable intervals and in unpredictable quantities. Examples of Service Requests might be “Create a new report,” or “Create a new scheduled file transfer.”

Requestors will submit a Service Request ticket in Remedy, the Department’s ticket management system. The request will route to the appropriate Department reviewer for approval. When a reviewer approves a ticket, it will be assigned a target completion date and will be approved for a defined number of Service Hours. The Contractor will have an opportunity to validate or counter-estimate either the estimated work or duration.

An annual bucket of Service Hours will be available to the Department to use for approved Service Request Activities. The Contractor will invoice the Department monthly for the Service Hours expended in the previous month, and will include documentation of approved, completed tickets with the invoice.

The Department will revisit the quantity of hours to purchase on an annual basis, at the then-current Contract rates found in Attachment 3, Price Response.

The Contractor is responsible for ensuring that Service Request Activities are appropriately authorized prior to beginning work, appropriately trained and proficient Contractor Personnel are assigned to execute the Service Request, that hours expended on the Service Request do not exceed the number of hours approved, and that records contain sufficient detail to allow Contractor to submit monthly invoices showing approved expenditure of Service Hours.

iii) Variable Enhancement Work Stream Overview

Variable Enhancements are efforts that cannot be defined in advance of an identified need. These needs may arise from actions of the legislature, from changes in technology, or from new or changing business needs from EFSS’s customer Agencies or the Department. The Department will use an internal enhancement review process to assess requests, establish priorities, and approve or postpone requests.

Each approved Variable Enhancement effort will be chartered and managed as a Project. Variable Enhancement Projects will be authorized by the Department by issuing a separate

Task Order against this Contract. That Task Order is required to include:

- A Supplemental Statement of Work describing the tasks to be performed in the Project;
- Deliverables, with acceptance criteria, Departmental review and acceptance timeframes, and financial consequences for non-performance if applicable;
- A price sheet describing Deliverables and their associated cost(s). Note that firm fixed costs per Project or Deliverable are preferred, but the Contractor must demonstrate how it derived the cost from hourly rates that do not exceed the hourly rates allowable under the Contract; and
- A description of how the Project will be invoiced.

Once the Project is authorized and a Task Order is issued, the Project will be managed by the Department and the Contractor, following the minimum requirements for Project Management described in the SDF.

The Contractor is responsible for coordinating Project Tasks with the Department’s Project Manager, executing the Project according to the applicable Supplemental Statement of Work, Project Plan, and any associated quality or performance measures, and maintaining records that allow Contractor to invoice separately for each Project, according to the agreed-to invoicing scheme described in the Task Order.

iv) Responsibilities Summary – Execution Phase

Task	Contractor Accountable	Department Accountable
Annual Support work stream: Execute the Annual Support Activities according to the applicable Activity Definition(s) and Activity calendar.	Primary	Secondary

Task	Contractor Accountable	Department Accountable
Annual Support work stream: Monitor outcomes of the Contractor's work on Annual Support Activities and provide quality assurance and oversight.	Secondary	Primary
Annual Support work stream: Monthly, provide written acceptance or rejection of Annual Support Activities and authorization to invoice the Department	N/A	Primary
Service Request work stream: Ensure that internal Department policies are followed for submitting, reviewing, and approving Service Requests.	Secondary	Primary
Service Request work stream: Assign approved Service Requests to appropriate Personnel that are experienced, trained and Rated appropriately.	Primary	Secondary
Service Request work stream: Evaluate assigned Service Requests to verify that Service Request has been appropriately approved, is clearly defined, can be accomplished within the estimated hours, and can be completed by the target completion date.	Primary	Secondary
Service Request work stream: Execute assigned Service Request within the approved hours and by the target completion date. Retain appropriate records to support post-audit review of expended Service Hours.	Primary	Secondary
Variable Enhancement work stream: Ensure that internal Department policies are followed for submitting, evaluating, prioritizing, and approving Variable Enhancement requests.	N/A	Sole
Variable Enhancement work stream: Define scope of work and costs for Variable Enhancement Project.	Secondary	Primary
Variable Enhancement work stream: Issue a Task Order authorizing a Variable Enhancement Project	Secondary	Primary
Variable Enhancement work stream: Manage overall delivery of Variable Enhancement Project in accordance with the Project Plan, the Task Order, and Departmental contract management guidelines.	Secondary	Sole
Variable Enhancement work stream: Manage Contractor Personnel to deliver Variable Enhancement Project according to the Task Order, the Project Plan and the requirements of the Contract.	Primary	Secondary
Prepare and submit monthly invoice(s) in compliance with the procedures in the SDF.	Sole	N/A
Review and approve monthly invoice(s) and submit for processing in compliance with the procedures in the SDF.	N/A	Sole

c. Closure Phase (Exit Transition Services)

The Closure Phase is concerned with an orderly transition, at the end of the Contract, of Primary accountability of Activities from the Contractor to another entity, whether that is the Department or subsequent vendor. Closure occurs prior to the end of the Contract, but after the Department has notified the Contractor that the Closure phase is initiated. The Closure phase begins with the Department notifying the Contractor of the need to begin the exit transition period. The Department will provide a minimum of thirty (30) and a maximum of ninety (90) calendar days' notice prior to the beginning of the Transition period. The exit transition period will last no more than six (6) months.

Unless Contract termination is due to Contractor default, all exit transition services required by the Closure phase will be paid either from Service Request hours or established as a Project following the format of the Variable Enhancements work stream. If Contract termination is due to Contractor default, exit transition services shall be at no additional charge to the Department. To the extent required by section 119.0701, F.S.,

the Contractor shall not include in the exit transition services a separate cost for any data conversion or other transfer of public records that the Contractor provides to the Department.

i) Exit Transition Plan

When the Department notifies the Contractor that Closure phase is initiated, the Contractor will prepare an Exit Transition Plan (Plan). The Plan shall include details necessary to transition Primary accountability for Annual Support and Service Request Activities to the entity(ies) the Department specifies in its notice. The Plan shall also provide for the orderly completion or closure of any in-progress Variable Enhancement Projects.

The Transition Plan shall include, at a minimum:

- Key Activities during the transition period;
- A plan for transition of resources for the Contractor and the Department;
- A communication plan for transition;
- Other required service operation transition services, including knowledge transfer; and
- Steps, measures, and controls that will be employed by the Contractor to prevent disruption of services during the Transition period.

ii) Responsibility Summary – Closure Phase

Task	Contractor Accountability	Department Accountability
Provide written notice to the Contractor of the commencement of the Closure phase, providing the required notice period prior to the start of the transition period.	N/A	Sole
Develop and write the Exit Transition Plan, including handover of all Annual Support and Service Request Activities and orderly completion or closure of active Variable Enhancement Projects where applicable.	Primary	Secondary
Provide Department with the current items including processes, documentation, and standard operating procedures in use by the Contractor.	Primary	Secondary
Train incoming staff (whether Department Staff or a subsequent Contractor) in the execution of all Activities in which the Contractor is Primary, in a reverse on-boarding process.	Primary	Secondary
Fully participate in all necessary meetings, planning, training, co-performance necessary to successfully transition Contract responsibilities from Contractor to subsequent entity.	Primary	Secondary

d. Special Considerations

Special Considerations are obligations of the Statement of Work that do not fit within a single phase or work stream.

i) Disaster Recovery

The Contractor shall work with the Department to become familiar with the Department’s Disaster Recovery (DR) infrastructure, which provides detailed actions to be taken in the event of a natural disaster (e.g. hurricane, fire, water damage) or a disaster resulting from negligence or a force majeure event. The Contractor shall then, within thirty (30) calendar days of execution of the Contract, submit to the Department’s Project Manager input to the Department’s Disaster Preparedness Plan, including provisions for pre-disaster records protection and an alternative Recovery Plan that allows the Contractor to continue functioning in compliance with the Contract in the event of an actual emergency. The Contractor shall work with the Department to test the planned disaster recovery and business continuity

process as documented in the Disaster Recovery Plan and Continuity of Operations Plan (COOP) during the disaster recovery exercise.

## 21. Work Stream Activities

### a. Annual Support Work Stream Activities

Annual Support Activities may include, but are not limited to the following. The final scope and timing of the Annual Support Activities will be defined at Negotiations.

Activity	Frequency
<b>Management</b>	
Update/Distribute year-end agency closing Plan	Annually
Schedule / set up for fiscal year (FY) end closing	Annually
Build electronic funds transfer (EFT) calendar (Sept – Oct)	Annually
Schedule FY end of year processes according to the Bureau of State Payroll (BOSP) FY end task list.	Annually
Have jobs that must be scheduled each year put on the CA7 calendar on the appropriate dates (Deferred compensation loads, 941X reports).	Annually
Schedule / set up for FY end closing	Annually
<b>FLAIR Design</b>	
Contribute to user acceptance testing (UAT) plans	Daily
<b>FLAIR Development</b>	
Establish new Legislative account codes	Annually
Build 1099 calendar file	Annually
Prompt payment interest rate	Quarterly
Create Internal Revenue Service (IRS) Files	Quarterly
Load class code crosswalk when received by the Division of Risk Management (generally no more than 2 or 3 times a year).	Quarterly
Extract and load bank title file from Federal Reserve	Monthly
Upload Division of Accounting and Auditing (A&A) auto pay spreadsheet and load to VOUCHER-AUTO-PAY ADABAS file	Daily
Master data cleansings	Daily
Property master record updates (Custodian ID/Class)	Daily
Load Statewide object code-revenue object code crosswalks	Daily
Process W9 returns from IRS (Fix File)	Daily
Central balance reports and process checks	Daily
Update IRS mandated W4 file.	Daily
<b>Reporting</b>	
Report master counts to A&A for year-end close scheduling	Annually
Transmit United States census bureau reports	Annually
Annual financial statements (Every September)	Annually
Reporting FY-end closing	Annually
FY table purge verification (in conjunction with Database Administrator (DBA))	Annually
Calendar year table purge verification (in conjunction with DBA)	Annually
Process to create the trust fund analysis spreadsheet to be uploaded to SharePoint (July and September)	Annually
Provide report of detail record count of FLAIR transactions for FY to A&A for Statewide cost allocation plan (SWCAP). (September)	Annually
Reports sent: tuition waiver access monitoring sent to BOSP;	Quarterly
Produce on call/overtime report.	Monthly
Send purchasing card (Pcard) reconciliation report to agencies	Monthly
Send Pcard charge payments by agency voucher number to A&A and to the agencies	Monthly
Send Pcard paid charge aging report to agencies	Monthly

Activity	Frequency
Verify crystal reports DB2 login jobs ran (1st and 15th) each month	Bi-Monthly
Send daily reports (~13) to A&A and Agencies	Daily
<b>Payroll</b>	
1099 transfers to the IRS (multiple times)	Annually
Generate W2s and associated data files; create year end forms (W2 web and print, W2C).	Annually
Schedule end of year processes according to the BOSP end of calendar year task list.	Annually
<b>FLAIR Production</b>	
Load statistical sampling file	Annually
Load new year appropriations from Executive Office of the Governor (EOG)	Annually
Annual financial statements (Every September)	Annually
Cash management improvement act (CMIA) processing	Annually
Run agency closing annual reports	Annually
Schedule the transfer of certified data to the EOG	Annually
Schedule Agency Departmental Accounting Component of FLAIR (DAC) Closing	Annually
Request transfer of certified data to the EOG from DAC	Annually
Schedule and authorize the running of annual agency closing reports	Annually
Audit of Crystal Report developers	Quarterly
Audit of data warehouse / managed reporting environment (MRE) user access	Quarterly
Merge monthly DAC history files	Quarterly
Review property balance report, available balance report, agency monthly closing report, master history balance report based on closing	Daily
Property transfers between agencies	Daily
Manual process to download statistics dataset to pc, save in pdf format and upload to SharePoint.	Daily
Review nightly production run emails for problems such as out of balance conditions	Daily
Manual process to save emailed warrant release cards in pdf format and upload (FTP) to UNIX. Send an email notification that pdf document is available.	Daily
Create daily CDs	Daily
Print and Log Warrants	Daily

b. Service Requests Work Stream Activities

Examples of Service Request Activities include, but are not limited to the following. The final scope of allowable Service Request Activities will be defined during negotiations.

Upload A&A auto pay spreadsheet and load to VOUCHER-AUTO-PAY ADABAS file
Property transfers between agencies
Master cleansings
Create SQL queries to fulfill data requests
Provide FTP services for data requests
Create and modify web pages
Provide tuition waiver administration access control
Provide MRE user access control
Update tables
Administrative access duties: Access Control, Consolidated Vendor Website access, and Natural Security (ADAPAYT).

c. Variable Enhancement Work Stream Activities

Variable Enhancement Projects will be defined for any scope of work not supported under one of the previous two work streams. Allowable tasks under this work stream are deliberately broad. The intent of the Department is that any Activity which supports the function or operation of the State's financial systems is allowable under this work stream; provided, however, that the Activity is appropriately proposed, reviewed, approved, and authorized in a Project.



**DEPARTMENT OF FINANCIAL SERVICES  
DFS OIT ITN 1718-04  
PRICE RESPONSE**

**ATTACHMENT 3**

**Contractor Name:**

**Signature of Authorized Representative:**

**Date:**

**Complete the GREEN colored cells.**

The Department reserves the right to split or merge Deliverables as needed to effectively manage the project. The overall project fees will not be affected by this. Fixed Price Deliverables provided below must be fully inclusive of all costs. No travel or incidental costs will be paid for fixed price Deliverables or Projects. Travel expenses only may be reimbursed for Service Requests pursuant to the terms of the Contract. Any other costs, software or licensing and maintenance fees required by the Contractor to deliver the services are assumed to be included in services costs unless otherwise noted below.

For Variable Enhancement Projects, each Deliverable defined in the Supplemental Statement of Work Part Two may be subject to 30% withholding, payable upon acceptance of the Deliverable and the expiration of the warranty period, if any.

**Price Response, Initial Term (Years 1-7)**

Deliverable / Pricing Element	Cost and Unit Type	Per-Unit Cost	Total # of Units	# of Invoices Permitted	Minimum Acceptance Criteria **	Maximum, Not-to-Exceed cost per Workstream, Initial Contract Term
Deliverable 1: Contract Initiation / <b>Initiation Price</b>	Deliverable-based, all inclusive Firm Fixed Price	Do not complete until BAFO.	1	1	Payable when all phase deliverables are complete.	Do not complete until BAFO.
Deliverable 2: Annual Support <b>Annual Support Fixed Fee Price</b>	Monthly services, all inclusive firm fixed price	Do not complete until BAFO.	12	12	100% of Activities for the invoiced month are complete.	Do not complete until BAFO.
Deliverable 3: Service Requests <b>Service Hours Rate</b>	Service Hours Authorized by a Service Request	\$ -	Do not complete until BAFO.	12	100% of the Service Tickets included on the month's invoice are complete.	Do not complete until BAFO.
Deliverable 4: Variable Enhancement Projects <b>Negotiated Rate Card</b>	Hourly rate Expert (18+ yrs exp)	\$ -	Respondent should populate fields D14-D17 in the initial written Response. These rates are not used to calculate the points awarded for cost, as described in ITN section 6.4. These rates should be used in the calculations for the Comparative Benchmark Rate as described below.			
	Advanced (10-17 yrs exp)	\$ -				
	Intermediate (5-9 yrs exp)	\$ -				
	Entry (0-4 yrs exp)	\$ -				

\*\* See Attachment 2, Statement of Work, section 7.c. for detailed description

## Comparative Benchmark Rate for Variable Enhancement Projects

The following value is used to calculate 50% of the Response pricing score as described in ITN section 6.4.

This rate is not to be used for pricing Deliverables or services under the Contract.

Contractor should use the Enhancement Project Rate Card (D14-D17 above) in the following calculations as appropriate:

Methodology Used: The methodology used by the Contractor to derive the benchmark rate. The Contractor warrants that this methodology uses real and factual data, unless otherwise specified in Assumptions. The Contractor may use one of three methodologies:

- 1) Whole-firm resource allocation model (# of employees at each level \* level cost / total number of employees);
- 2) Leverage allocation model, based on Contractor's documented internal leverage ratios. e.g. 10% executive, 20% management, 30% team lead, 40% team member. ((expert ratio \* expert cost) + (advanced ratio \* advanced cost) + (intermediate ratio \* intermediate cost) + (entry ratio \* entry cost))
- 3) Historic sampling model, based on the average blended rate realized by Contractor for similar projects at other clients. (total fees billed / total # hours worked). Contractor should indicate in the Assumptions column the number of clients and the timeframes over which the sample was selected.

Methodology Selected (1, 2, or 3)	Rate	Additional Comments / Assumptions / Constraints
Identify which of the three (3) methodologies described above were used, and the source of the real data used in calculations.	\$ -	

## Price Response, Renewal Term (Years 8-14)

Deliverable	Cost Type	Unit Type	Per-Unit Cost	Total # of Units	# of Invoices Permitted	Minimum Acceptance Criteria **	Maximum, Not-to-Exceed cost per Workstream, Renewal Term
Deliverable 1: Contract Initiation	Firm Fixed Price	Deliverable-based	Do not complete until BAFO.	1	1	Payable when all phase deliverables are complete.	Do not complete until BAFO.
Deliverable 2: Annual Support	Firm Fixed Price	Monthly services, all inclusive	Do not complete until BAFO.	12	12	100% of Activities for the invoiced month are complete.	Do not complete until BAFO.
Deliverable 3: Service Requests	Blended Rate	Service Request Ticket (calculated from Hours)	Do not complete until BAFO.	Do not complete until BAFO.	12	100% of the Service Tickets included on the month's invoice are complete.	Do not complete until BAFO.
Deliverable 4: Variable Enhancement Projects	Hourly rates used to develop Project Deliverable costs.	Expert (18+ years of experience)	Do not complete until BAFO.	TBD	TBD	Payable according to the Price Response attached to the Supplemental Statement of Work.	Do not complete until BAFO.
		Advanced (10-17 years of experience)	Do not complete until BAFO.	TBD			
		Intermediate (5-9 years of experience)	Do not complete until BAFO.	TBD			
		Entry (0-4 years of experience)	Do not complete until BAFO.	TBD			

\*\* See Attachment 2, Statement of Work, section 7.c. for detailed description

### Additional Cost Modifiers

The following section is optional. The Respondent may provide cost information related to alternative approaches. For example, if the Respondent wishes to offer an additional service, the Respondent would identify the service in column 1, indicate which work stream the service would relate to, and provide cost for the additional service. Assuming the additional service is purchased at additional cost, the Respondent will enter a positive number into the cost column. Alternatively, if the Respondent wished to request the Department reduce or eliminate a requirement of the Statement of Work, the Respondent could propose cost savings to go with the request by entering the cost impact as a negative number in the cost column.

Brief Title / Description of Cost Modifier	Workstream Affected by Cost Modifier	Cost Impact (positive increases cost to the State, negative decreases it)	Additional Comments / Assumptions / Constraints
<i>Some additional service, alternative approach, or request to reduce scope or requirements</i>	<i>One, Two, or Three</i>	\$ -	

### Sample Deliverable-Based Project Price Response

The following is for reference only and is representative of what an Enhancement Project Price Response might look like, attached to a Supplemental Statement of Work.

Deliverable	Minimum Acceptance Criteria	Personnel Variant	Hours per variant	Price per variant	Extended Price (Fixed, deliverable-based price preferred)	Contractor Assumptions or Constraints
Deliverable #1 Name		Expert		\$ -	\$ -	
		Advanced		\$ -	\$ -	
		Intermediate		\$ -	\$ -	
		Entry		\$ -	\$ -	
Deliverable #2 Name		Expert		\$ -	\$ -	
		Advanced		\$ -	\$ -	
		Intermediate		\$ -	\$ -	
		Entry		\$ -	\$ -	
Total Price for all Deliverables:						\$ -
30% Withholding:						\$ -
Initial Payment (payable upon acceptance of Phase Deliverables):						\$ -
Final Payment (payable upon expiration of Phase Warranty Period):						\$ -

**DEPARTMENT OF FINANCIAL SERVICES**  
**PUBLIC RECORDS REQUIREMENTS**  
**DFS OIT ITN 1718-04**  
**ADDENDUM A**

**1. Public Records Access Requirements.**

- a. If the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from public access pursuant to section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate this Contract if the Contractor refuses to allow public access to Public Records as required by law.

**2. Public Records Requirements Applicable to All Contractors.**

- a. For purposes of this Contract, the Contractor is responsible for becoming familiar with Florida's Public Records law, consisting of Chapter 119, F.S., section 24(a) of Article I of the Florida Constitution, or other applicable state or federal law (Public Records Law).
- b. If the Contractor has a reasonable, legal basis to assert that any portion of any records submitted to the Department are confidential, proprietary, trade secret, or otherwise not subject to disclosure ("Confidential" or "Trade Secret") under Public Records Law or other authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the records the Contractor claims as Confidential or Trade Secret and briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption. This un-redacted copy of the records shall contain the Contract name and number, and shall be clearly labeled "Confidential" or "Trade Secret." The redacted copy of the records should only redact those portions of the records that the Contractor claims are Confidential or Trade Secret. If the Contractor fails to submit a redacted copy of records it claims are Confidential or Trade Secret, such action may constitute a waiver of any claim of confidentiality.
- c. All requests to inspect or copy Public Records relating to this Contract must be made directly to the Department. Notwithstanding any provisions to the contrary, disclosure of any records made or received by the State in conjunction with this Contract are governed by Public Records Law. The Department will respond to Public Records requests for records marked as "Trade Secret" pursuant to section 624.4213, F.S., in accordance with the provisions specified in that statute. If the Department receives a Public Records request, and if records that have been marked as "Confidential" or "Trade Secret" are responsive to such request, the Department shall provide the Contractor-redacted copies to the requester. If a requester asserts a right to the portions of records claimed as Confidential or Trade Secret, the Department shall notify the Contractor that such an assertion has been made. It is the Contractor's responsibility to assert that the portions of records in question are exempt from disclosure under Public Records Law or other authority. If the Department becomes subject to a demand for discovery or disclosure of the portions of records the Contractor claims as Confidential or Trade Secret in a legal proceeding, the Department shall give the Contractor prompt notice of the demand, when possible, prior to releasing the portions of records the Contractor claims as Confidential or Trade Secret (unless disclosure is otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its records are Confidential or Trade Secret. No right or remedy for damages against the Department arises from any disclosure made by the Department based on the Contractor's failure to promptly legally protect its claim of exemption and commence such protective actions within ten days of receipt of such notice from the Department.
- d. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.

**3. Additional Public Records Duties of Section 119.0701, F.S., if Applicable.**

If the Contractor is a “contractor” as defined in section 119.0701(1)(a), F.S., the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the Public Records to the Department.
- e. Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Contractor keeps and maintains Public Records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department’s custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.

**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 PUBLIC RECORDS OFFICE AT:**

**Telephone:** (850) 413-3149  
**Email:** [PublicRecordsInquiry@myfloridacfo.com](mailto:PublicRecordsInquiry@myfloridacfo.com)  
**Mailing Address:** The Department of Financial Services  
Office of the General Counsel, Public Records  
200 E. Gaines Street, Larson Bldg.  
Tallahassee, Florida 32399-0311

## DEPARTMENT OF FINANCIAL SERVICES

### DATA SECURITY REQUIREMENTS

#### DFS OIT ITN 1718-04

#### ADDENDUM B

#### 1. Data Security, Recovery, and Damages for Non-Performance.

- a. Data Security.
  - i) Obligation to Protect: The Contractor, its employees, subcontractors, and agents, shall at a minimum comply with Rule Chapter 74-2, Florida Administrative Code (F.A.C.), which contains IT security procedures and require adherence to the Department's security policies, in performance of this Contract. Additionally, the Contractor, its employees, subcontractors and agents shall take all commercially reasonable measures to ensure the continued security of any and all of the data collected, created, or provided by the Department.
  - ii) Responsibility to Notify of Breach. The Contractor shall provide immediate notice to the Department's Information Security Office (ISO), within the Office of Information Technology, in the event it becomes aware of any security breach, any unauthorized transmission, or loss of any State Data and provide immediate notice to the ISO of any allegation or suspected violation of Rule Chapter 74-2, F.A.C. Unless required by law or legal process, 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 according to applicable rules, including, but not limited to, Rule Chapter 74-2, F.A.C. If Contractor is required to divulge Confidential Information by law or legal process, it shall do so only after notice to the Department.
  - iii) Responsibility to Not Transmit Confidential Information. The Contractor will not be required to keep confidential any information that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's Confidential Information, or information that is otherwise obtainable under State law as a public record.
  - iv) Failure to Maintain Security. Failure to maintain security that results in certain data release will subject the Contractor to the administrative sanctions for failure to comply with section 501.171, F.S., together with any costs to the Department of such breach of security caused by the Contractor. If State Data will reside in the Contractor's system, the Department may conduct, or request the Contractor conduct at the Contractor's expense, an annual network penetration test or security audit of the Contractor's system(s) on which State Data resides. If the Contract is less than a year in duration, the right to conduct the network penetration test or security audit of the Contractor's system(s) on which State Data resides can be exercised at any time.
- b. Data Protection. No State Data will be transmitted, processed, or stored outside of the United States of America regardless of method, except as required by law. Access to State Data will only be available to Contractor Personnel that have a legitimate business need. Access to State Data does not include remote support sessions for devices that might contain the State Data; however, during remote support sessions the Department requires the Contractor to escort the remote support access and maintain visibility of Contractor Personnel's actions. Requests for remote access will be submitted to the Department's Help Desk. With approval, third parties may be granted time-limited terminal service access to IT resources as necessary for fulfillment of related responsibilities. Remote connections are subject to detailed monitoring via two-way log reviews and the use of other tools. When remote access is no longer needed, the Contractor shall promptly notify the Help Desk and access will be promptly removed.
- c. Encryption and Remote Access. The Contractor shall encrypt all data transmissions containing Confidential Information, using a protocol approved by the Department.
- d. Breach and Negligence. The Contractor agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses, and liabilities arising from or in any way related to the Contractor's breach of this Section or the negligent acts or omissions of the Contractor related to this addendum.
- e. Specific Security Requirements. Any Criminal Justice Information Services and/or Health Information Portability and Accountability Act-specific security requirements are attached in a separate addendum, if applicable.

- f. State Data. State Data will be made available to the Department upon its request, in the form and format reasonably requested by the Department. Title to all State Data will remain property of the Department and/or become property of the Department upon receipt and acceptance. The Contractor will not possess or assert any lien or other right against or to any State Data in any circumstances.

**2. Contract Provisions Specific to Offsite Services.**

- a. Data Submissions and Databases. The Contractor shall maintain and secure adequate back-up files of all documentation and programs utilized to process State Data submissions. The Contractor shall develop data security procedures to ensure only authorized access to data submissions and databases by personnel for contracted activities. The Contractor shall develop data security procedures to ensure no unauthorized access to data submissions and databases by individuals other than those authorized by the Contract or designated representatives of the Department.
- b. Technology/Systems Disaster Recovery.
  - i) Any monetary losses due to failure to provide secure availability to the Contractor's web-based system, the instability of the system, failure to provide adequate safeguards to prevent unauthorized entry into the Department's account, and failure to adequately respond to Acts of God will be reimbursed at the same amount as the loss.
  - ii) The Contractor shall perform a successful Disaster Recovery test yearly and shall annually provide the summary statement of an independent auditor as to the successful performance of such Disaster Recovery test. The Department will be entitled to a two-percent (2%) holdback of payment from each invoice after the anniversary date that the independent auditor's confirmation of the test is not timely received within the timeframes required by the parties' agreed schedule. Holdback will be applied to the next billing cycle after the anniversary.
- c. Audits and Data Retention. The Contractor will timely cooperate in completion of all audits and data retention required by State law, applicable industry rules, or applicable federal law. The Department will respect the security restrictions of the Contractor regarding inspections pursuant to PUR 1000, section 7, to the extent permitted by law and limit such inspections to relevant records during normal business hours. Failure to meet data retention requirements related to the services will be considered a material breach of the Contract and cause for termination. If any audit of the Contractor's charges reflect that the Contractor has incorrectly invoiced the Department, the Contractor will issue, on the next invoice submitted to Department pursuant to this Contract, a credit or debit, as appropriate, to correct the inaccuracy.

**3. Data Access.**

- a. Background Checks and Screening. All Contractor personnel who will have access to State Data will undergo the background checks and screenings described in Attachment 2, Statement of Work section 14.
- b. Cooperation with the State and Third Parties. The Contractor agrees to cooperate with the following entities: (i) the State; (ii) the State's other contractors; (iii) the State's agents, including properly authorized governmental entities; (iv) the State's authorized third parties, such as technology staff under contract with the State; and (v) other properly authorized individuals who directly or indirectly require access to State Data on behalf of any of the entities listed in this section. The Contractor shall also provide reasonable access to Contractor's Contract personnel, systems, and facilities to these same entities, when reasonably requested by the Department. The Contractor agrees to impose these same requirements on all subcontractors performing the work of this Contract.

**DEPARTMENT OF FINANCIAL SERVICES**  
**GLOSSARY OF TERMS AND ACRONYMS**  
**DFS OIT ITN 1718-04**  
**ADDENDUM C**

Terms used in this Contract (including any attachments thereto) without definition shall have the meanings ascribed below. With the exception of terms identified herein, the defined terms in Rule Chapters 60A-1, 74-1 and 74-2, Florida Administrative Code (F.A.C.) apply, and are found at:  
<http://www.flrules.org/Gateway/reference.asp?No=Ref-06494>

**“Acceptance”** means a written notification that a Deliverable or work product has been reviewed, is judged by the Department to meet the specifications contained in the Services, and the Contractor may invoice the Department for the Deliverable or work product.

**“Acceptance Testing”** means the testing of functionality and defined Deliverable, as applicable.

**“Accountability (Primary / Secondary)”** indicates which party (the Department or the Contractor) is accountable for the successful completion of an Activity. Accountable parties may utilize any resource allowable to execute the Activity (including Contractor Personnel if the Department is Primary and vice versa), but ensuring the completion of the task accurately, completely, and in agreement with the Activity Definition (if one exists), or commonly accepted practice, is the sole responsibility of the Primary accountable party. When the Contractor is assigned Primary accountability for an Activity, the Contractor’s performance of that Activity, including any potential financial consequences, is measured according to the terms of the Contract or applicable Activity Definition.

**“Activity(ies)”** means the discrete functions which might be provided by the Contractor in the provision of Annual Support, Service Request, or Variable Enhancement Project services. An Activity generally describes a set of tasks that combine to produce a result (e.g. “Review Daily Reports” might include more than a dozen tasks that must be accomplished to determine whether overnight jobs successfully ran). Typically, an Activity will be defined within the actions of a single resource, with definite pre- and post- states, and specific training and performance measures that can be assigned.

**“Activity Definition”** means a document that includes the set of tasks that comprise the Activity, the Activity’s pre- and post- state, acceptance criteria, acceptance review process, financial consequences, minimum knowledge, skills, and abilities that Contractor resources must have before the Department will train the resource(s), and the milestones associated with each Proficiency Level.

**“Agency”** refers to the administrative units defined in section 20.04, F.S. In the context of this Contract, Agency also refers to a unit which uses or interacts with the State’s Enterprise Financial System.

**“Annual Support”** refers to the total of all Activities, and their associated calendar, defined within the annual firm, fixed-price obligation of the Contractor in the Statement of Work and Service Delivery Framework.

**“Attachments”** means the Attachments attached to, or referenced in, the Contract.

**“Best and Final Offer (BAFO)”** means a Contractor’s revised, final Response that the State may request from a Respondent(s) following initial Contract negotiations

**“Business Day,”** Monday through Friday, inclusive, except for non-working days declared and observed by the State. Whether capitalized or not, “day” means Business Day (defined as the Department’s normal working hours) unless otherwise described.

**“Business Hours,”** whether capitalized or not, shall mean 8 AM to 5 PM Eastern Time on all business days.

**“Calendar Day,”** whether capitalized or not, shall mean all days, including weekends and holidays.

**“Catastrophic Event”** refers to a situation where the State’s financial systems are not fully operational due to an unplanned outage or fault, and as a result, the State is unable to perform one or more Essential Duties (e.g. print warrants, post transactions, etc.).



“**Confidential**” or “**Confidential Information**” information in the possession of, or under the control of, the State or the Contractor that is exempt from public disclosure pursuant to Chapter 119, Florida Statutes (F.S.), or any other applicable provision of State or federal law that serves to exempt information from public disclosure. This includes, but is not limited to, the security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department.

“**Contractor**” means the business entity to which this Contract has been awarded and entered into by the Department.

“**Contractor Personnel**” means all of the individuals who may perform services, or manage, oversee, train, supervise, consult, or in any other way participate in or contribute to the performance of services provided by the Contractor under this Contract. Personnel include, but are not limited to, employees, subcontractors, agents, or other persons working for or on behalf of the Contractor and at the Contractor’s direction. Contractor Personnel refers to both singular (a person) and plural (people).

“**Contract**” has the meaning given in Attachment 1, Standard Terms and Conditions, section 1.

“**Contract Attachments**” see Attachments.

“**Deficiency**” or “**Defect**” means a problem with a Deliverable or Work Product that does not meet the acceptance standards defined in: Attachment 2, Statement of Work, the Services Delivery Framework, the Activity Definition, or the Supplemental Statement of Work attached to a specific Purchase Order for Project Deliverables, or, if not elsewhere stated, then meeting the level of quality stated in the Contract. See also: “**Material Deficiency**”.

“**Deliverables,**” and “**Evidence of Work,**” means all results, items, and/or materials representing goods and Services, provided, prepared, and delivered to the Department by the Contractor. Deliverables are quantifiable, measurable, and verifiable. Deliverables must be received and accepted in writing by the contract manager before payment. Generally, a Deliverable is an electronic file which might be a document, data file, raw code, compiled executable, etc. Evidence of Work is documentation produced to communicate performance of work that does not, in and of itself, produce an obtainable electronic file. Examples might be a completed service ticket, a screen shot of an appropriately configured application component, or a signup roster from a training class. All Deliverables and Work Products must be directly related to the scope of work and the Contract specifies the required minimum acceptance criteria for evaluating the successful completion of each deliverable. See also: “**Work Product.**”

“**Department**” (the DFS) means the Florida Department of Financial Services, or its successor entity.

“**Developed Material**” means all software and other materials produced by the Contractor Personnel in the performance of Projects associated with the Department’s systems and processes, including software program code, in both object code and source code forms, and all related materials, including designs, data models, database models, object models, program listings, flow charts, application manuals, technical manuals, training manuals, user manuals, and operating procedures. The term “Developed Material” does not include pre-existing software not owned by the Department, or commercially-available upgrades or modifications thereto, but does include any modifications, enhancements or interfaces created specifically for the Department in the delivery of Contract services.

“**Dispute**” means a Dispute that could not be resolved between the Department Contract Manager and the Contractor Client Manager, or between the Department Project Sponsor and appropriate principals of the Contractor. Complex Disputes are escalated to the Chief Financial Officer, as described in Attachment 1, Standard Terms and Conditions, Section 8. See also: “**Simple Dispute.**”

“**Department Contract Manager**” has the meaning given in Attachment 2, Statement of Work, Section 20. The Contract Manager’s responsibilities will be defined within the **Services Delivery Framework**.

“**Division of Information Systems**” (DIS or Division) means the former name of the Office of Information Technology (OIT). See also: “**EFSS,**” “**OIT.**”

“**Effective Date**” means the last date the Standard Contract is signed by both parties.

“**EFSS**” refers to the Enterprise Financial Support Services, an organization within the Office of Information Technology that is responsible for the maintenance and daily operation of FLAIR and associated financial systems for the State.

“**Enterprise Financial System**” means the financial system of the State, consisting of one or more applications that function together to enable to State to comply with the obligations of the Florida Financial Management Information System Act (section 215.90, F.S).

“**Event of Default**” has the meaning given in Attachment 1, Standard Terms and Conditions.

“**Failure to Meet Minimum Accepted Service Levels,**” or “**Failure,**” means a situation in which the Contractor did not meet the Minimum Accepted Service Levels described in Attachment 2, Statement of Work.

“**FLAIR**” stands for **FL**orida **A**ccounting **I**nformation **R**esource. This is the State of Florida’s current Enterprise Financial System. FLAIR shall be used in this Contract to refer to all information technology systems managed by the Department in support of the State’s financial management functions. See also: “**Enterprise Financial System.**”

“**Force Majeure Events**” has the meaning given in section 24, PUR 1000.

“**Fiscal Year**” (FY) runs from July 1st of one year to June 30th of the next calendar year.

“**Including**” means “including, without limitation,” wherever the word “including” appears in this Contract, whether or not such word is capitalized.

“**Installation Testing**” means testing that assures that the product has been effectively installed and is operational.

“**ITN**” means Invitation to Negotiate, a formal procurement method under Chapter 287, F.S.

“**Knowledge, Skills, and Abilities**” or “**KSAs**” refers to the skillsets of an individual assigned to the Contract by the Contractor. Minimum KSAs for an Activity describe the minimum skillsets a given resource must have for the OIT to train that resource to perform that Activity.

“**Laws**” means any statute, regulation, ordinance, rule, order, decree, mandate or requirement enacted, issued, promulgated or imposed by any governmental authority or recognized non-governmental regulatory body or industry standard setting organization at any level (e.g., municipal, county, state, or national or international) at any time.

“**Material Deficiency**” (whether capitalized or not) means a problem of such impact that a specific requirement is not operational (critical part), any situation including one that prevents use of the entire system or of its critical parts, late delivery that may interfere with the timely and proper completion of the Services, or any design, installation, testing, deployment or system restoration either (a) delayed such that it affects critical path or (b) not in accordance the specifications contained in the Department-accepted Project Plan, and according to the criteria identified in the Deliverable Acceptance Criteria.

“**Minimum Accepted Service Levels**” refers to basic performance measures the Contractor must meet in executing services under this Contract. Minimum Accepted Service Levels are defined in Attachment 2, Statement of Work.

“**Non-Appropriation**” means a Legislative act in which funds to enable the Department or to effect continued payment under this Contract are not appropriated or otherwise made available.

“**Party**” or “**Parties,**” whether or not capitalized, mean one or both parties to the Contract, unless the context requires otherwise.

“**Performance Measures**” means specific measurement indicators assigned to Contract tasks representing timeliness and quality of task output. It encompasses both the result and method for producing work (e.g. content of a Deliverable in addition to due date and methodology, if necessary). Performance Measures may be more particularly described in Attachment 2, Statement of Work, or in the Services Delivery Framework.

“**Proficiency Level Rating**” means an individual rating based on the ability the Contractor Personnel has demonstrated to independently, accurately, reliably, and securely execute a given Activity. All Contractor Personnel will begin at “Level one” and “level up” as they meet applicable milestones for their assigned Activity. Ratings are as follows, and the key milestones associated with each level are included in the Activity Definitions:

**Proficiency Rating: “Level one”** means Contractor Personnel has the required Knowledge, Skills, and Abilities (KSAs) to learn the Activity, but no experience with FLAIR. OIT is Primary (accountable) for Activity.

**Proficiency Rating: “Level two”** means Contractor Personnel has been trained in FLAIR, and can perform the Activity with close supervision of OIT staff. OIT is Primary (accountable) for Activity.

**Proficiency Rating: “Level three”** means Contractor Personnel is independently performing Activity. OIT staff reviews results / output of each Activity instance individually. Contractor is Primary (accountable) for Activity. Contractor is responsible for training subsequent Contractor Personnel in Activity.

**Proficiency Rating: “Level four”** means Contractor Personnel is independently performing Activity. OIT staff reviews results / output collectively through reports, statistics, or other evidence. Contractor is Primary (accountable) for Activity. Contractor is responsible for training subsequent Contractor Personnel in Activity.

**“Project”** is a discrete scope of work authorized by the Contract, but identified and defined individually during the Contract Term, and specifically authorized by the Department by issuing a separate work order against the Contract. A Project must have a Supplemental Statement of Work which specifies Project Deliverables, Acceptance Criteria, and Liquidated Damages specific to that Project. A Project will have a Department Project Manager assigned to it, whose responsibilities are defined in the Supplemental Statement of Work. A Project is required to include a Project Plan as a named Project Deliverable.

**“Project Completion”** relates particularly to a Project as defined in a specific work order issued against the Contract. Project Completion means Acceptance of the Final Closeout Deliverable, together with all post-implementation support identified in the Supplemental Statement of Work for a maximum of 60 days after Installation Period go-live.

**“Project Deliverable”** relates particularly to a Project as defined in a specific work order issued against the Contract. A Project Deliverable is produced by the Contractor when executing a Supplemental Statement of Work attached to a specific work order. A Project Deliverable will be produced according to the Project Plan for that particular Project, and under the direction of the Project Manager assigned to that Project.

**“Project Plan”** relates particularly to a Project as defined in a specific work order issued against the Contract. The project management plan is a single formal document that lays out how a Project is to be managed, executed, and controlled and is referenced in Supplemental Statements of Work associated with specific work orders.

**“Quality Assurance Testing”** means testing performed by the Contractor that confirms that a Deliverable or Work Product conforms in all respects to applicable Acceptance Criteria and has been created in a workmanlike and professional manner. Quality Assurance Testing includes without limitation system testing, integration testing, volume/stress testing, business function testing, and regression testing.

**“Rated Personnel”** and **“Non-Rated Personnel”** refer to Contractor Personnel that have (Rated) and have not (Non-Rated) achieved a Proficiency Level of three or four in one or more Activities.

**“Requirements”** means the specific business, functional, technical, and other requirements of the Department to be achieved by or otherwise through the performance of the Services, which are set out in Attachment 2, Statement of Work, and the Services Delivery Framework.

**“Respondent,” “Vendor,”** or **“Proposer”** means the entity that submitted materials to the Department in accordance with the solicitation.

**“Response”** means the written Response that a Respondent submits to the Department in response to the Department’s Invitation to Negotiate.

**“Responsive”** is a determination made by the Department that a Response meets mandatory requirements and is eligible to be scored by the Evaluation Team.

**“Scope”** describes at a high level what will and will not be included as part of the project. Scope defines the project’s overall boundaries and provides a common understanding of the project for the stakeholders and the project team. It is further defined by the requirements, deliverables, schedule, and supporting information contained in the Statement of Work.

**“Service Delivery Framework,”** or **“SDF”** or **“Framework”** is a document developed after Contract execution. The document is developed by the Parties, and mutually agreed to by the Parties, and establishes the governance model for the execution, control, monitoring, and closure of Contract Services. The Service Delivery Framework clarifies and refines the Statement of Work, roles and responsibilities, Acceptance Criteria, calendar of Activities, invoicing procedures, service request submission, approval, and authorization, Project definition and authorization, and other governance considerations.

“**Service Requests**” refers to the Activities that may be assigned by the Department to the Contractor which fall within the Service Hours budget in Attachment 3, Price Response. Service Request tickets are individually requested and approved prior to the Contractor commencing work.

“**Services,**” or “**Contract Services**” means all of the tasks, equipment, software and other products and materials (including Deliverables) Contractor Personnel are required to perform or deliver as defined in the Contract, Statement of Work, and any Attachments. Such Services may evolve, be enhanced, and change over the term as contemplated by this Contract. The term “Services” also includes any unspecified service that is inherent to the proper delivery of a specified service.

“**Shared Data**” means any data or information of or concerning the State or the Department that either is created or generated by Contractor personnel in the performance of the Contractor’s obligations under the Contract, including third party service and product contracts.

“**Simple Dispute**” means a Dispute that can be resolved between the Department Contract Manager and the Contractor Client Manager (as described in Attachment 2, Statement of Work section 20a.iii)), or between the Department Project Sponsor and appropriate principals of the Contractor.

“**State**” means the state of Florida.

“**State Data**” refers to any data or information of or concerning the State or the Department that is provided to or obtained by the Contractor or Contractor personnel in connection with the performance of the Contractor’s obligations under the contract, including any such data and information that either (i) is created, generated, collected or processed by Contractor personnel in the performance of the Contractor’s obligations under the Contract, including data processing input and output, performance measurements, asset information, reports, third party service and product contracts, and the Contractor’s charges to the Department, or (ii) resides in or is accessed through the Department operating environment or the Contractor’s service delivery infrastructure; as well as any data and information derived from the foregoing.

“**State Data and Systems**” refers to the entirety of information technology assets owned or managed by the Department. This definition includes State Data, Shared Data, software programs, computers, servers, and network infrastructure.

“**Subcontractor**” means a company to which the Contractor delegates performance of a portion of the Services by means of a subcontract, but does not include independent contractors engaged by the Contractor solely in a staff augmentation role.

“**Task**” means a cohesive, individual unit of work that is part of the total work needed to accomplish a Project.

“**Third Parties**” includes but is not limited to technology staff under contract to the Department, and properly authorized individuals directly or indirectly accessing the Department’s data or systems on behalf of the Department.

“**User Acceptance Testing**” (also referred to as “UAT”) means the testing of work products to be carried out by the Department with the support and assistance of the Contractor to determine whether the Deliverables or Work Products should be Accepted by the Department.

“**Variable Enhancements**” refers to specific enhancements defined by the Department and authorized individually by issuing a work order against the Contract. Variable Enhancements are defined, and managed, as Projects.

“**Vendor Bid System**” (VBS) refers to the State of Florida internet-based vendor information system at [http://myflorida.com/apps/vbs/vbs\\_main\\_menu](http://myflorida.com/apps/vbs/vbs_main_menu)

“**Work Order,**” or “**Purchase Order**” refers to a legal authorization to perform work within a given fiscal year. The Department generates a Purchase Order out of the MyFloridaMarketPlace application. The Contractor may not begin work on any portion of the Statement of Work before a lawful Purchase Order is issued. Any work begun prior to the issuance date of a Purchase Order may not be charged to the Department. Contingent on the legislative release of funds, a minimum of one Purchase Order will be issued each fiscal year to authorize Annual Support and Service Request services. Additional Purchase Orders may be issued by the Department to authorize work on a specific Variable Enhancement.

“**Work Product**” refers to the work performed by the Contractor which is communicated to the Department through Evidence of Work. In the context of Deliverable Acceptance, the Contractor submits Evidence of Work, but it is the Work Product that the Department assesses for acceptability and approval.

**DEPARTMENT OF FINANCIAL SERVICES**  
**INTENT TO RESPOND**  
**DFS OIT ITN 1718-04**  
**Attachment E**

Vendors who wish to submit a Response to the Department's DFS OIT ITN 1718-04 should complete and return this form by the deadline indicated in the Timeline of Events, ITN Section 3.6.

Vendor's Full Legal Name: \_\_\_\_\_  
Vendor's Website Address: \_\_\_\_\_  
Contact Person Name: \_\_\_\_\_  
Contact Person Phone Number: \_\_\_\_\_  
Contact Person Email: \_\_\_\_\_

After receipt of this form, the Department's Procurement Officer will contact each vendor to tentatively assign the vendor to an available oral demonstration slot. Available slots will be offered on a first-come, first-served basis. The Procurement Officer will contact vendors in the order in which the Intent to Respond forms were received and will make two (2) contact attempts for each vendor – once by phone, once by email – before moving to the next vendor on the list. Assignment of the vendor to a demonstration slot does not guarantee that the vendor will be invited to meet with the Department. Only vendors that successfully submit a Responsive Response will be invited to demonstrate their knowledge and experience to the evaluation team.

Oral demonstration slots will be scheduled for half-day sessions after the deadline to submit written Responses. Vendors should ensure that all necessary personnel are made available on the days identified in the Timeline of Events. Vendors are encouraged to begin arranging travel schedules once assigned to a demonstration slot, but are cautioned that the dates in the ITN may change due to unanticipated events, or the vendor may not be invited to demonstrate as explained above.

If a vendor makes the determination to withdraw from its demonstration at any time prior to demonstrations, the vendor is asked to notify the Procurement Officer that its assigned demonstration slot is released and can be offered to other vendors.

**DEPARTMENT OF FINANCIAL SERVICES**

**Mandatory Criteria Certification**

**DFS OIT ITN 1718-04**

**Attachment F**

This form must be completed by the Respondent's authorized representative. The Respondent acknowledges that the Department will rely on the representations made on this form in making its decision of award. If the Department discovers that any of the information on this form is false prior to the award of the Contract, the Department will determine the Respondent non-responsive and not evaluate its Response. If the Department discovers that any information on this form is false after the award to the Respondent is made, the Department reserves the right to terminate the Contract and the Respondent will be liable for costs associated with re-procuring the services.

---

**1. Does Respondent certify that it agrees to the terms above?**

\_\_\_\_\_

**2. Does Respondent certify that the person submitting the Response is authorized to respond to this ITN on Respondent's behalf?**

\_\_\_\_\_

**3. Does Respondent certify that it is not a Discriminatory Vendor or Convicted Vendor as defined in Sections 7 and 8 of the PUR 1001?**

\_\_\_\_\_

**4. Does Respondent certify compliance with Section 9 of the PUR 1001?**

\_\_\_\_\_

**5. Does Respondent agree to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its Response are confidential, proprietary, trade secret, or otherwise not subject to disclosure?**

\_\_\_\_\_

**6. Certify one and write N/A on the others:**

a. Does Respondent certify that it is registered with the Florida Department of State?

\_\_\_\_\_

**OR**

b. Does Respondent certify that if awarded a contract under this solicitation, it will register with the Florida Department of State prior to execution of the Contract?

\_\_\_\_\_

**OR**

c. Does Respondent certify that it is not required to register with the Florida Department of State (see applicable sections of Title XXXVI, Business Organizations, Chapters 605 through 623, F.S.)?

\_\_\_\_\_

**7. Certify one and write N/A on the other:**

- a. Does Respondent certify that a drug-free workplace has been implemented in accordance with section 287.087, F.S.?

\_\_\_\_\_

**OR**

- b. Does Respondent agree to waive its right to be given preferential treatment as a drug-free workplace in the event of a tie?

\_\_\_\_\_

**8. Does the Respondent agree not to seek indemnification from the Department?**

\_\_\_\_\_

**9. Does Respondent certify that it is not 1) on the Scrutinized Companies with Activities in Sudan List, 2) on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or 3) participating in a boycott of Israel?**

\_\_\_\_\_

**10. Does Respondent meet the requirements for Insurance as required by section 10 of ITN Attachment A, Standard Terms and Conditions, and section 12 of Attachment B Statement of Work, Part One?**

\_\_\_\_\_

**11. Does Respondent (including its subcontractors, subsidiaries and partners) certify it has no existing relationship, financial interest or other activity that creates any actual or potential organizational conflicts of interest relating to the award of a contract for this ITN, or it has included information in its Response describing actual or potential organizational conflicts of interest?**

\_\_\_\_\_

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

Name of Business Entity: \_\_\_\_\_

Signed by: \_\_\_\_\_

Print Name \_\_\_\_\_

**DEPARTMENT OF FINANCIAL SERVICES**

**Vendor Questionnaire**

**DFS OIT ITN 1718-04**

**Attachment G**

<b>Question</b>	<b>Vendor Response</b>
<b>General Vendor Information</b>	
<b>Address: (Please provide information for the primary office responsible for this contract)</b>	
Company Name	
Address 1	
Address 2	
City	
State	
Postal/Zip Code	
Country	
Phone	
Fax	
Website	
<b>Contact Information</b>	
<b>Primary Contact Person (Executive Leadership)</b>	
Position Title	
Phone Number (Please include Country Code + City Code)	
Fax Number (Please include Country Code + City Code)	
Email Address	
<b>Secondary Contact Person (Day-To-Day Client Manager)</b>	
Position Title	
Phone Number (Please include Country Code + City Code)	
Fax Number (Please include Country Code + City Code)	
Email Address	
<b>Company Information</b>	
Federal ID No.	
Legal Entity Type (i.e., Corporation, Partnership, Sole Proprietor or other).	
If a corporation, provide your state/country of incorporation.	
How many years has your company been in business under your current name? Please specify dates of any prior names.	
Describe the legal structure of your company, including parent and subsidiaries. Include a corporate Organization Chart if needed.	
List your locations and number of employees per location.	
Specify any trade associations you are associated with.	



Question	Vendor Response
<b>Firm Stability</b>	
Have you, your parent or any subsidiaries filed for bankruptcy in the past five (5) years?	
Indicate whether your company had any investigatory or regulatory action to disclose in Tab 1 of your Response (indicate yes or no).	
Indicate whether your company had any litigation to disclose in Tab 1 of the Response (yes or no).	
Are you in the process of an acquisition or merger?	
What is your annual sales revenue? (A range is acceptable if this is not publicly available information)	
Are you partnered with leading technology vendors and industry associations, if so, who are they?	
<b>Delivery History</b>	
List all current service offerings.	
How many years have you offered mainframe and / or financial system operational or management services?	
How many years has your firm provided operations services to government entities?	
How many years has your firm provided operations services for large legacy financial systems?	
How many years has your firm provided enhancement development services for large legacy financial systems?	
Are you a consulting company or IT managed services company?	
Is your company purely a services company, or does it develop products as well?	
What is the volume of your currently supported user base, or your firms' largest supported user base within the last three (3) years? If not current, please provide the year.	
<b>Re-Investment</b>	
Please state the percentage of revenues invested in staff or services training or development for the past three (3) years.	
Please identify any investments your firm has made towards maturing as a service organization. List ITIL, PMP, CSOC, or other applicable certifications your staff holds, indicate whether your company has completed a CMMI or ISO process evaluation; if your firm provides hosting or processing services, do you invest in an annual SAE-16 certification?	
Will proposed staff be employees of your company, or sub-contractors?	
What has your employee attrition rate been, averaged over the past three years?	
How do you receive customer feedback?	

**DEPARTMENT OF FINANCIAL SERVICES**  
**Award Preferences for Identical Evaluations of Responses**  
**DFS OIT ITN 1718-04**

**Attachment H**

In the event of identical tie Responses, preference shall be given to the Respondent who (check the applicable block) certifies one or more of the following:

1.  **The Respondent is a certified minority-owned firm or company;**
2.  **The Respondent is a veteran owned business certified according to section 295.187, F.S.;**
3.  **The Respondent is a Florida-based business having at least one of the following characteristics:**
  - a. Fifty-one percent of the company is owned by Floridians; or
  - b. Employs a workforce for this project or contract that is at least 51% Floridians; or
  - c. More than 51% of company's business assets, excluding bank accounts, are located in Florida;
4.  **The Respondent is a Florida-domiciled entity;**
5.  **The commodities are manufactured, grown, or produced within this state;**
6.  **The Respondent is a Foreign manufacturer with a factory in the State employing over 200 employees working in the State;**
7.  **The Respondent has drug-free workplace programs.** Whenever two (2) or more solicitation Responses 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 solicitation Response 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 solicitation Responses will be followed if none of the tied Respondents have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:
  - a. 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.
  - b. Inform employees of the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for violations.
  - c. Give each employee engaged in providing the Contract Services a copy of the statement specified in subsection (1).
  - d. In the statement specified in subsection (a), notify the employees, as a condition of working on the Contract Services, 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.
  - e. 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.
  - f. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

I certify that this firm complies fully with the above-selected requirements. (If item 7 above is selected, subsections "a" through "f" have been met.)

Contractor's Name: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_

**DEPARTMENT OF FINANCIAL SERVICES**

**Client Reference Form**

**DFS OIT ITN 1718-04**

**Attachment J**

**Respondent Name:**

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In the spaces provided below, the Respondent shall list all names under which it has operated during the past five (5) years.

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On the following pages, the Respondent shall provide the information indicated for three separate and verifiable, non-Department client references. The client references must be for work similar in nature to that specified in this solicitation. The same client reference may not be listed for more than one reference and confidential clients shall not be included. In the event the Respondent has had a name change since the time work was performed for a listed reference, the name under which the Respondent operated at that time must be provided in the space provided for Respondent's Name (if different from above).

Clients that are listed as subcontractors in the Response will not be accepted as Client References under this solicitation. Entities having an affiliation with the Respondent (i.e., currently parent, subsidiary having common ownership, having common directors, officers or agents or sharing profits or liabilities) may not be accepted as client references under this solicitation.

Client contacts should be available for telephone contact during normal business hours, 9:00 AM through 5:00 PM, Eastern Time. The Department will attempt to reach each client contact by telephone four times. In the event the client contact indicated cannot be reached following four attempts, the Respondent will receive a score of zero for that reference. The Department will not attempt to correct erroneous information provided by the Respondent.

The Department reserves the right to contact sources other than the client references identified by the Respondent to obtain additional information regarding the Respondent's past performance. Information obtained from other contacted sources may be used to determine whether the Respondent is a responsible vendor as defined in section 287.012(25), Florida Statutes.

**DEPARTMENT OF FINANCIAL SERVICES**  
**Client Reference Form**  
**DFS OIT ITN 1718-04**  
**Attachment J**

NON-DEPARTMENTAL CLIENT REFERENCE #1

Respondent's Name:

---

Client's Name:

---

Client Address:

---

Primary Contact Person:

Alternate Contact Person:

---

Primary Phone Number:

Alternate Phone Number:

---

Primary Fax Number:

Alternate Fax Number:

---

Email Address:

---

Contract Performance Period:

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Location of Services:

Brief description of the services performed by the Respondent for the above named client:

**DEPARTMENT OF FINANCIAL SERVICES**  
**Client Reference Form**  
**DFS OIT ITN 1718-04**  
**Attachment J**

NON-DEPARTMENTAL CLIENT REFERENCE #2

Respondent's Name:

---

Client's Name:

---

Client Address:

---

Primary Contact Person:

Alternate Contact Person:

---

Primary Phone Number:

Alternate Phone Number:

---

Primary Fax Number:

Alternate Fax Number:

---

Email Address:

---

Contract Performance Period:

---

Location of Services:

---

Brief description of the services performed by the Respondent for the above named client:

**DEPARTMENT OF FINANCIAL SERVICES**  
**Client Reference Form**  
**DFS OIT ITN 1718-04**  
**Attachment J**

NON-DEPARTMENTAL CLIENT REFERENCE #3

Respondent's Name:

---

Client's Name:

---

Client Address:

---

Primary Contact Person:

Alternate Contact Person:

---

Primary Phone Number:

Alternate Phone Number:

---

Primary Fax Number:

Alternate Fax Number:

---

Email Address:

---

Contract Performance Period:

---

Location of Services:

Brief description of the services performed by the Respondent for the above named client:

**DEPARTMENT OF FINANCIAL SERVICES**  
**Client Reference Form Questionnaire for Past Performance**  
**DFS OIT ITN 1718-04**  
**Attachment J**

**To be completed by the Department**

**Respondent's Name:** \_\_\_\_\_

**Reference Contact Person Spoken To:** \_\_\_\_\_

**The following questions will be asked of each client reference provided:**

	<b>Score</b>
1. Briefly describe the services the Respondent performed for your organization:	N/A
2. How would you rate your initial contract implementation with this Respondent in terms of an efficient start up of services? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
3. How would you rate the performance of the Respondent in terms of meeting all of its service delivery deadlines? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
4. How would you rate the performance of the Respondent in terms of meeting all of its reporting deadlines and providing accurate information? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
5. How would you rate the performance of the Respondent in terms of meeting overall contract requirements? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
6. How would you rate the adequacy of the Respondent's staffing levels in order to meet the requirements of your contract? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
7. How would you rate the ability of the Respondent's key staff to maintain open lines of communication with your organization? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
8. How would you rate the Respondents responsiveness in terms of providing information and resolving issues or concerns? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
9. How would you rate the knowledge and expertise of the Respondent in terms of the services provided to you? Excellent = 5; Good = 4; Acceptable = 3; Fair = 2; Poor = 1	
10. How likely would you be to contract with this Respondent again? Definitely = 5; Very Likely = 4; Likely = 3; Unlikely = 2; Definitely Not = 1	
<b>Total Score:</b>	

Reference Verified by EFSS Program Lead:

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DEPARTMENT OF FINANCIAL SERVICES  
 Evaluation Scoresheet  
 DFS OIT ITN 1718-04  
 Attachment K

**Instructions:**

Review each evaluation criteria. Consider each of the points below the criteria and indicate your agreement with the statement in the "Evaluator's Agreement" column. Options are: Strongly Agree, Agree, Partially Agree, Disagree. Each of the items under the criterion are equally important in determining the score for the criterion.

The max possible score for each criterion is listed under the "Notes" column. If your score is other than "Agree," you are asked to enter notes explaining your reasoning. See ITN 6.3 regarding score without demonstration.

**Respondent:** Respondent Name \_\_\_\_\_

**Respondent Name      Did / Did Not      Attend a Demonstration**

			Score (with Demo)	Score (without Demo)
<b>Experience &amp; Ability, and Service Level &amp; Execution Score</b>			Waiting to Calculate Score	Waiting to Calculate Score



Evaluation Criteria	Notes	Evaluator's Agreement with Criteria	Criteria Score (with Demo)	Criteria Score (without Demo)
<b>6.1 Experience and Ability Evaluation Criteria</b>				
<b><i>(a) Respondent's financial stability and articulation of its capabilities as a managed services provider capable of supporting a complex mainframe-based financials system with hundreds of thousands of data transfer interfaces annually (max 80 points).</i></b>	Maximum score with demo: 80 Maximum score without demo: 72		Indicate Evaluator's agreement for score	Indicate Evaluator's agreement for score
(1) The Respondent is an operations services provider with experience supporting environments substantially similar to the Department.				
(2) The Respondent demonstrated that it has sufficient history in the market to indicate firm stability.				
(3) The Respondent demonstrated that it has sufficient reputation and reach in the market to effectively recruit resources.				
(4) The Respondent's financial statements and disclosures appear to reflect a firm capable of supporting the scope and duration of this Contract.				

Evaluation Criteria	Notes	Evaluator's Agreement with Criteria	Criteria Score (with Demo)	Criteria Score (without Demo)
<b><i>(b) Respondent's references, experience in government environments, and experience providing services similar to the Statement of Work (max 180 points).</i></b>	Maximum score with demo: 180 Maximum score without demo: 162		Indicate Evaluator's agreement for score	Indicate Evaluator's agreement for score
(1) The Respondent demonstrated that it has multiple engagements or clients in which it has successfully supported contracts of substantially similar size and scope for the services sought.				
(2) The Respondent effectively demonstrated that it has successfully provided similar services to government agencies.				
(3) The Respondent effectively demonstrated that it has successfully implemented enhancements in complex legacy environments.				
(4) The services described by the references were relevant to the services sought via the ITN.				
(5) The references communicated and confirmed the Respondent's experience successfully providing substantially similar services to government agencies.				
(6) The references communicated and confirmed the Respondent's ability to successfully provide the requested services.				
(7) No major issues or concerns were identified by the references.				

Evaluation Criteria	Notes	Evaluator's Agreement with Criteria	Criteria Score (with Demo)	Criteria Score (without Demo)
<b>6.2 Service Delivery and Execution Evaluation Criteria</b>				
<b><i>(a) Respondent's articulation of its understanding of the Department's needs, services management approach, the innovation of the approach, and the ability of the approach to meet the Department's needs and the requirements of this ITN (max 160 points).</i></b>	Maximum score with demo: 160 Maximum score without demo: 144		Indicate Evaluator's agreement for score	Indicate Evaluator's agreement for score
(1) The Respondent proposed an effective approach to supporting the FLAIR system's daily, weekly, monthly, quarterly, and annual operations.				
(2) The Respondent proposed an effective approach to manage the assignment, reporting, and invoicing of multiple work streams and service requests with sufficient record-keeping to meet Department audit requirements.				
(3) The Respondent proposed an approach that should safeguard the FLAIR system from untested or faulty enhancement code.				
(4) The Respondent proposed performance measures for the work streams that demonstrate effective management of Activities required by the Contract.				
(5) The Respondent described a reasonable methodology for estimating costs for Service Requests and Variable Enhancement projects. The methodology is based on experience or predictable parameters and includes a "true-up" of actual hours or costs the Department incurs at a known interval.				

Evaluation Criteria	Notes	Evaluator's Agreement with Criteria	Criteria Score (with Demo)	Criteria Score (without Demo)
<b><i>(b) Respondent's staffing practices, process for assigning work, and approach to managing Contractor Personnel. (max 180 points).</i></b>	Maximum score with demo: 180 Maximum score without demo: 162		Indicate Evaluator's agreement for score	Indicate Evaluator's agreement for score
(1) The Respondent effectively demonstrated a mature process for locating, hiring, training, and retaining resources.				
(2) The Respondent demonstrated sufficient "bench strength" to service multiple work streams simultaneously.				
(3) The Respondent demonstrated an understanding of the goals of the on-boarding process described in the Statement of Work and proposed an approach that satisfied those goals.				
(4) The Respondent articulated an effective control structure to ensure the Department is not billed for the same work under different work streams.				
(5) The Respondent clearly described controls in place to ensure no malicious code is deliberately or accidentally introduced into the State's systems, and has mature, multi-faceted fraud prevention and detection controls to monitor Contractor Personnel.				

State of Florida  
Department of Financial Services

Invitation to Negotiate (ITN)  
Number: DFS OIT ITN 1718-04  
Enterprise Financial System Support Services

Procurement Officer:  
Wanda Norton  
Operations Review Specialist  
Department of Financial Services  
Office of Purchasing and Contractual Services  
200 E. Gaines Street, Larson Building  
Tallahassee, FL 32399-0317  
Email: [DFSpurchasing@myfloridacfo.com](mailto:DFSpurchasing@myfloridacfo.com)

Failure to file a protest within the time prescribed in section 120.57(3), F. S., 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, F.S.

## Table of Contents

<b>Section 1</b>	<b>Introduction.....</b>	<b>5</b>
<i>1.1</i>	<i>Purpose.....</i>	<i>5</i>
<i>1.2</i>	<i>Solicitation Objective.....</i>	<i>5</i>
<i>1.3</i>	<i>Background.....</i>	<i>5</i>
<i>1.4</i>	<i>Questions Being Explored.....</i>	<i>6</i>
<i>1.5</i>	<i>Goals of the ITN.....</i>	<i>6</i>
<i>1.6</i>	<i>Term.....</i>	<i>6</i>
<i>1.7</i>	<i>Definitions.....</i>	<i>6</i>
<i>1.8</i>	<i>Special Accommodations.....</i>	<i>6</i>
<i>1.9</i>	<i>Procurement Officer.....</i>	<i>7</i>
<b>Section 2</b>	<b>Supporting Documentation.....</b>	<b>8</b>
<b>Section 3</b>	<b>ITN Process.....</b>	<b>9</b>
<i>3.1</i>	<i>Overview of the ITN.....</i>	<i>9</i>
<i>3.2</i>	<i>Solicitation Phase.....</i>	<i>9</i>
<i>3.3</i>	<i>Evaluation Phase: Administrative Review.....</i>	<i>10</i>
<i>3.4</i>	<i>Evaluation Phase: Technical Response Review.....</i>	<i>10</i>
<i>3.5</i>	<i>Negotiation Phase.....</i>	<i>11</i>
<i>3.6</i>	<i>Timeline of Events.....</i>	<i>11</i>
<i>3.7</i>	<i>Addenda/Amendment to the ITN.....</i>	<i>12</i>
<i>3.8</i>	<i>Contract Formation.....</i>	<i>12</i>
<i>3.9</i>	<i>Disclosure of Response Contents.....</i>	<i>12</i>
<i>3.10</i>	<i>Withdrawal of Responses.....</i>	<i>13</i>
<i>3.11</i>	<i>Clarifications.....</i>	<i>13</i>
<i>3.12</i>	<i>Information from Other Sources.....</i>	<i>13</i>
<i>3.13</i>	<i>Diversity.....</i>	<i>13</i>
<b>Section 4</b>	<b>Response Instructions.....</b>	<b>14</b>
<i>4.1</i>	<i>General Instructions to Respondents.....</i>	<i>14</i>
<i>4.2</i>	<i>MyFloridaMarketplace (MFMP) Registration.....</i>	<i>14</i>
<i>4.3</i>	<i>Who May Respond.....</i>	<i>Error! Bookmark not defined.</i>
<i>4.4</i>	<i>How to Submit a Response.....</i>	<i>15</i>

4.5	<i>How to Submit a Redacted Response</i> .....	16
4.6	<i>Additional Information</i> .....	17
<b>Section 5</b>	<b>Contents of Response</b> .....	<b>18</b>
5.1	<i>Contents of Response</i> .....	18
5.2	<i>TAB 1: Administrative Response (Mandatory Requirements)</i> .....	19
5.3	<i>TAB 2: Respondent Qualifications</i> .....	20
5.4	<i>TAB 3: Operational Approach</i> .....	22
5.5	<i>TAB 4: Contractor Staffing and Management Approach</i> .....	24
5.6	<i>TAB 5: Contract and Financial Information (Include in “Original” Response Only)</i> .....	26
<b>Section 6</b>	<b>Selection Methodology</b> .....	<b>28</b>
6.1	<i>Experience and Ability Evaluation Criteria</i> .....	28
6.2	<i>Service Delivery and Execution Evaluation Criteria</i> .....	29
6.3	<i>Written and Demonstration Response Scoring</i> .....	29
6.4	<i>Price Response Scoring</i> .....	31
<b>Section 7</b>	<b>Negotiations</b> .....	<b>32</b>
7.1	<i>Negotiation Team</i> .....	32
7.2	<i>Negotiations</i> .....	32
7.3	<i>Negotiation Location and Attendance</i> .....	33
7.4	<i>Revised Responses and Best and Final Offers</i> .....	33
7.5	<i>Other Department Rights During Negotiations</i> .....	33
7.6	<i>Negotiation, Demonstration, and Presentation Meetings Not Open to Public</i> .....	34
7.7	<i>Selection Criteria</i> .....	34
<b>Section 8</b>	<b>AWARD</b> .....	<b>35</b>
8.1	<i>Basis of Award</i> .....	35
8.2	<i>Award Preferences for Identical Evaluations of Responses</i> .....	35
8.3	<i>The Department’s Recommendation of Award</i> .....	35
8.4	<i>Chief Financial Officer’s Approval</i> .....	35
8.5	<i>Posting of Decision</i> .....	35
8.6	<i>Execution of Contract</i> .....	36
<b>Attachment A</b>	.....	<b>37</b>
<b>Attachment B</b>	.....	<b>48</b>
<b>Attachment C</b>	.....	<b>73</b>
<b>Attachment D</b>	.....	<b>77</b>

<b>Attachment E.....</b>	<b>87</b>
<b>Attachment F.....</b>	<b>89</b>
<b>Attachment G .....</b>	<b>92</b>
<b>Attachment H .....</b>	<b>97</b>
<b>Attachment J .....</b>	<b>99</b>
<b>Attachment K .....</b>	<b>105</b>

**List of Attachments**

**Attachments that are part of the Contract:**

ITN Attachment A, Contract Signature Page and Contract Attachment 1, Standard Terms and Conditions

ITN Attachment B, Contract Attachment 2, Statement of Work

ITN Attachment C, Contract Attachment 3, Price Response (**Complete and return to the Department**)

ITN Attachment D, Contract Addenda:

Contract Addendum A, Public Records Requirements

Contract Addendum B, Data Security Requirements

Contract Addendum C, Glossary

**ITN Attachments to be completed and returned to the Department:**

Attachment E, Intent to Respond Form

Attachment F, Mandatory Criteria Certification

Attachment G, Vendor Questionnaire

Attachment H, Award Preference for Identical Evaluation of Responses

Attachment J, Client Reference Form

(Attachment I intentionally omitted)

**ITN Attachment for reference only:** Attachment K, Evaluation Worksheet



# Section 1 Introduction

## 1.1 Purpose

The state of Florida (State) Department of Financial Services (Department), Office of Information Technology (OIT) is issuing this Invitation to Negotiate (ITN) to establish a contract (Contract) for Enterprise Financial System Support Services. The solicitation will be administered through the Vendor Bid System (VBS). Respondents interested in submitting a Response must comply with all of the terms and conditions described in this ITN.

## 1.2 Solicitation Objective

The Department intends to enter into a Contract using the Attachment 1, Contract Signature Page and Standard Terms and Conditions for Enterprise System Support Services (Support Services), more fully outlined in Attachment 2, Statement of Work. The Department reserves the right to award to one (1) Respondent, multiple Respondents, or to make no award, as determined to be in the best interest of the State.

## 1.3 Background

The Department is responsible for maintaining and supporting the State's financial systems. Currently known as "FLAIR," the financial system is used to issue warrants for payroll and retirement, pay State vendors, manage the planned and actual budgets of all State agencies, and produce the financial data from which the State's Comprehensive Annual Financial Report (CAFR) is produced.

The core of the FLAIR system is a component called "Central FLAIR." This is the component that interfaces with the State's banking institutions and the Treasury to issue warrants and electronic funds transfers. This system houses the checkbook functions for the State. Central FLAIR interfaces with a distributed component called "Departmental FLAIR." An instance of Departmental FLAIR sits independently at each State agency. Agencies use Departmental FLAIR to manage and monitor annual budgets, enter vendor invoices, and request fund transfers. The third component of FLAIR is the Payroll component, which manages the salary, deductions, contributions, and reporting for the current and former State employees. A data warehouse is the fourth major component of FLAIR. Transactional data is transferred to the data warehouse daily, and the data warehouse is available to agencies for data inquiry as needed.

In addition to these four components, the FLAIR system relies on several hundred thousand file imports and exports per year, which enable the components to interface with each other and with third party applications and institutions with whom the State has business.

Within the Department, the OIT, Enterprise Financial Support Services (EFSS) unit, is responsible for all aspects of operating and supporting the FLAIR components, from printing warrants and monitoring data transfer jobs, to programming enhancements, and managing the mainframe server in an onsite Tier 2 data center.

In 2014, the Department initiated an eight- to twelve-year project to modernize the State's accounting system by implementing a configurable commercial-off-the-shelf (COTS) enterprise resource planning (ERP) software. The Florida Planning Accounting and Ledger Management (Florida PALM) project is presently in a solicitation phase. Florida PALM promulgated an invitation to negotiate for software and implementation services in November 2016. In parallel, EFSS is developing a ten-year organizational transformation plan to accommodate the anticipated

needs of the Florida PALM project and eventual operational responsibilities for the State's modernized financial system.

This ITN for Support Services is a critical component of EFSS transformation plan. Through this ITN, EFSS intends to negotiate a Contract with one (1) or more vendors who can perform operational, maintenance, development, and customer support tasks that EFSS employees perform today.

## **1.4 Questions Being Explored**

Respondents are not to respond directly to these questions. The Department is seeking assistance in addressing the questions being explored in this section. The Department will use the information obtained through this ITN process to assist it in addressing the following questions:

1. How to balance maintaining the existing State's financial system with knowledge transfer necessary for succession planning for several known retirements, while supporting new technological demands, and ensuring the Department and the State are not exposed to risk.
2. How to simultaneously train resources in supporting older FLAIR technologies and new technological demands.
3. How to fully support and help ensure the success of new technological demands, and ensuring the State remains protected from risk.

## **1.5 Goals of the ITN**

1. Create flexibility to allow EFSS to support the financial system needs of the State, without regard to technology or timeframe.
2. Create capacity to enable EFSS to support the modernization project and train employees in the new technologies, without having to trade off the ability to maintain the existing FLAIR systems.

## **1.6 Term**

The initial term of the Contract, as defined below, will be seven (7) years beginning on the date of execution, and the Contract may be renewed in whole or in part for up to seven (7) years in accordance with section 287.057, Florida Statutes (F.S.). Renewal will be made at the renewal pricing specified in the Contract.

Note that the Department is funded from annual appropriation by the Florida Legislature. The Department's ability to enter into a Contract, and its performance and obligation to pay under said Contract, is contingent upon availability of funds.

## **1.7 Definitions**

Defined terms used in this ITN have the meaning defined in Attachment 4, Contract Addendum C, Glossary.

## **1.8 Special Accommodations**

Any person requiring a special accommodation due to a disability should contact the Department's Procurement Officer. Requests for accommodation for meetings must be made at least five (5) Business Days prior to the meeting.

## 1.9 Procurement Officer

Pursuant to section 287.057(23), F.S., and the PUR 1001, section 21, the Procurement Officer is the sole point of contact from the date of release of this ITN until the contract award to a successful Respondent. Violation of this provision may be grounds for rejecting a Response.

The Procurement Officer is:

Wanda Norton

Department of Financial Services

Email: [DFS purchasing@myfloridacfo.com](mailto:DFS purchasing@myfloridacfo.com)

200 East Gaines Street, Larson Bldg.,  
Room B24 - Office of Purchasing & Contractual Services,  
Tallahassee, FL 32399-0317

Please note that questions will NOT be answered via telephone. Refer ALL inquiries in writing to the Procurement Officer by email. Responses to questions posed to the Procurement Officer before the deadline to submit questions as identified in the Timeline, Section 3.6, will be posted on the Vendor Bid System (VBS), at [http://myflorida.com/apps/vbs/vbs\\_main\\_menu](http://myflorida.com/apps/vbs/vbs_main_menu) in accordance with section 3.2.2 below.

**\*\*\*ALL EMAILS TO PROCUREMENT OFFICER SHALL CONTAIN THE ITN NUMBER IN THE SUBJECT LINE OF THE EMAIL\*\*\***

Only communications which are in writing from the Procurement Officer may be considered as authorized communications on behalf of the Department. The Respondent will not engage in any lobbying efforts or other attempts to influence the Department or the evaluation or negotiation team in an effort to be selected.

During this procurement process, Respondents should take steps to isolate individuals participating in this ITN from individuals participating in any of the Department's other active solicitations. Any information that a Respondent representative obtains during a temporarily exempt communication (see sections 3.9 and 7.6), must be treated as **confidential**.

Additionally, in the event any Respondent has a relationship with any employee or contractor under current contract to the Department, those individuals may only communicate with the Respondent regarding their existing contract. Information obtained through the performance of an existing contract, whether obtained formally or informally, will be treated as **confidential**.

Upon completion of this procurement, and execution of a Contract with the successful Respondent, the Contractor's staff assigned to this Contract shall use any information available only for the purpose of carrying out the provisions of the Contract. Information obtained through the performance of this Contract, whether obtained formally or informally, will be treated as **confidential**.

Confidential information will not be divulged by any individual or made known in any manner to any person except as may be necessary to respond to this ITN or perform the duties of an executed Contract. Disclosure of confidential information to anyone other than an officer or employee of the Department is prohibited, except with express direction or consent of the Department.

## **Section 2     Supporting Documentation**

The Procurement Officer can provide the following documents relevant to this solicitation:

- (a)     Attachment C, Price Response, in Excel format
- (b)     Attachment G, Vendor Questionnaire, in Excel format
- (c)     Attachment K, Evaluation Worksheet, in Excel format
- (d)     DFS Policy AP&P 4-17 and OIT Procedure DIS-015 (change management)

Additional online manuals can be viewed under the Florida Accounting Information Resource (FLAIR) subheading, at the following link: <http://www.myfloridacfo.com/Division/AA/Manuals/default.htm>:

## Section 3 ITN Process

### 3.1 Overview of the ITN

The ITN is a method of competitively soliciting a commodity or contractual service under Chapter 287, F.S. The ITN process involves three phases: Solicitation, Evaluation, and Negotiation.

### 3.2 Solicitation Phase

3.2.1 Pre-Response Conference: Vendors interested in submitting a Response are strongly encouraged to attend a pre-response conference. The Department will give a brief background presentation on the FLAIR systems, after which the Department will participate in an informal question and answer session with Respondents. The Department may answer questions to the best of its ability during the conference, but only written responses posted to the VBS as described in section 3.2.2, will constitute binding responses.

3.2.2 Question and Answer Period: In addition to questions posed during the pre-response conference, Respondents may submit written questions or requests for clarification regarding the terms, conditions, requirements of the ITN and its attachments, and any processes described in those documents, to the Procurement Officer by email by the deadline listed in the Timeline of Events, in section 3.6. The Department will address all inquiries submitted by the deadline listed in the Timeline below.

Questions will not constitute a formal protest of the specifications or of the solicitation. Responses to all written inquiries, and clarifications or addenda if made to the ITN, will be made through the VBS.

Each submission shall have the solicitation number in the subject line of the email. Questions must be submitted in the following format to be considered:

Question #	Vendor	ITN Section	ITN Page #	Question

3.2.3 Intent to Respond: Vendors interested in submitting a Response should complete and return Attachment E, Intent to Respond, to the Procurement Officer before the deadline listed in the Timeline of Events, in section 3.6. Although the Department will make reasonable efforts to accommodate vendors' schedules, vendors who do not return an Intent to Respond are not guaranteed a slot for in-person demonstrations, as discussed in ITN section 3.4. Respondents who do not participate in the in-person demonstrations forfeit the evaluation points associated with demonstrations. See section 6.3 and Attachment K, Evaluation Worksheet for more information.

3.2.4 Submission of Responses: Once the Department posts the answers to the questions, Respondents may begin submitting Responses as indicated in section 4.4; however, Respondents are encouraged to submit Responses no earlier than five (5) days prior to the submission deadline. Responses must be submitted by the deadline listed in the Timeline of Events, in section 3.6.

- 3.2.5 **Public Opening:** The Department will open the Responses in a public meeting at the date, time, and location noted in the Timeline of Events, in section 3.6. The Procurement Officer will review the entire Response to ensure that all required volumes were timely submitted, however prices will not be read aloud at the ITN Public Opening. The Public Opening concludes the solicitation phase.

### **3.3 Evaluation Phase: Administrative Review**

All Responses will be reviewed by the Procurement Officer to ensure that complete Responses have been submitted and to ensure that the Responses meet the minimum mandatory criteria listed in Attachment F, Mandatory Criteria Certification. Complete Responses that meet the minimum mandatory criteria will be sent to the evaluation team for the qualitative review. In order to foster maximum competition, the Department will seek to minimize Respondent disqualifications resulting from non-responsiveness during the administrative review process. Therefore, the Department may, at its sole discretion, notify Respondents whose qualifying information or documentation does not meet the requirements of the ITN and will allow the correction of errors and omissions prior to making a final determination of responsiveness. Timely cures will be accepted by the Department.

To be considered complete, Responses must include:

- a. Completed Attachment C, Price Response
- b. Completed Attachment F, Mandatory Criteria Certification
- c. Completed Attachment G, Vendor Questionnaire
- d. Completed Attachment H, Award Preference for Identical Evaluation of Responses
- e. Completed Attachment J, Client Reference Form
- f. An audited financial statement or other evidence of financial stability as required in ITN section 5.6.

The Department may use subject matter experts during the Administrative Review. After completing the Administrative Review, the Procurement Officer will forward the responsive Responses to each evaluation team member, initiating the Evaluation Phase.

### **3.4 Evaluation Phase: Technical Response Review**

All Respondents who submitted a responsive Response (including a timely submitted Intent to Respond form), as determined by the Procurement Officer pursuant to the criteria in Section 3.3 will be contacted to confirm a scheduled in-person demonstration. Any responsive Respondents who did not submit an Intent to Respond may be contacted and offered an available slot for a demonstration, but is not guaranteed an opportunity to demonstrate.

At the demonstration, the evaluation team members will have the opportunity to ask clarifying questions and the Respondent will be asked to demonstrate its ability to meet various requirements of the Statement of Work. The Department's evaluation timeline is aggressive. It is important that the Respondent make necessary arrangements to be available during the demonstrations timeframe in the Timeline of Events, section 3.6. If the Respondent is unable to participate in the demonstration, the Respondent will forfeit the points awarded for the demonstrations as described in section 6.3.

After demonstrations, evaluation team members will score each Response according to the evaluation criteria set forth in section 6. The Responses will be scored individually and the price points added to the evaluation team scores by the Procurement Officer to establish a competitive

range of Responses reasonably susceptible of award. The Department may then select one (1) or more Respondents within the competitive range with which to commence negotiations (concurrently or sequentially), or may reject all Responses.

### 3.5 Negotiation Phase

During the Negotiation Phase, the Department will meet with selected Respondent(s) to negotiate terms of a potential Contract that provides the best value to the Department. During negotiations, the Department and the Respondent(s) will come to agreement on a final scope of services, contract terms, service level agreements, timelines, performance measures, and financial consequences for non-performance. The Respondent must attend negotiations with individuals fully qualified and authorized to negotiate these considerations and enter into a binding agreement on behalf of the Respondent.

Upon conclusion of negotiations, the Department may request a Best and Final Offer (BAFO) and the Respondent(s) will submit a BAFO to the Department. The BAFO shall include final pricing and any negotiated assumptions or limitations the Respondent deems material.

The Negotiation Team members will review each BAFO individually, then reconvene in a public meeting to discuss the recommended award.

The Department will then post its Notice of Intent to Award on the VBS.

### 3.6 Timeline of Events

The following schedule will be strictly adhered to in all actions relative to this solicitation. The Department reserves the right to make adjustments to this schedule and will notify participants in the solicitation by posting an addendum on VBS. It is the responsibility of the Respondents to check VBS on a regular basis for such updates.

<b>Timeline</b>	<b>Event Time (ET)</b>	<b>Event Date</b>
ITN posted on the VBS	N/A	9/05/2017
Pre-Response bid conference: The meeting will be held at 200 East Gaines Street, Larson Building, Room 116, Tallahassee, Florida, at 1:30 P.M. (ET). Conference attendance for Respondents is highly encouraged, but not mandatory.	1:30 pm	10/05/2017
Deadline to submit questions electronically to Procurement Officer.	3:00 pm	10/19/2017
Anticipated date for the Department to post answers to Respondents' questions on VBS.	5:00 pm	11/16/2017
Deadline to submit Attachment E, Intent to Respond form electronically to the Procurement Officer.	5:00 pm	11/30/2017
Deadline to submit responses and all required documents to the Department.	3:00 pm	01/25/2018
Response opening. 200 East Gaines Street, Tallahassee, FL, Larson Building.	3:30 pm	01/25/2018

Timeline	Event Time (ET)	Event Date
Public meeting for negotiation team to discuss recommended award.	TBD	TBD

### 3.7 Addenda/Amendment to the ITN

The Department reserves the right to modify this ITN by issuing addenda and/or amendments. All changes to the ITN will be made through addenda or amendments posted on the VBS. It is the responsibility of the Respondent to check for any changes on the VBS.

### 3.8 Contract Formation

The Department may enter into a Contract with each Respondent awarded pursuant to section 6. The Contract will consist of the Contract which includes, Attachment 1, consisting of the Contract Signature Page and the Standard Terms and Conditions, Attachment 2, Statement of Work, Attachment 3, Price Response, the attached Contract Addenda, and further may include relevant portions of the BAFO submitted by the awarded Respondent(s). If there is any discrepancy between the Statement of Work and the incorporated relevant portions of the Response, the terms most favorable to the Department shall prevail. See the Contract and its attachments for more details on final contract formation.

Certain terms and conditions of the Statement of Work may be negotiated during negotiation sessions. The Respondent must submit an updated Statement of Work that reflect the negotiated changes to the Statement of Work, or otherwise reduce the result of the negotiations to writing, and attach it to its BAFO. Notify the Department of any exceptions to the Standard Terms and Conditions and Part One of the Statement of Work in the initial Response. No additional documents submitted by a Respondent will be incorporated into the Contract unless specifically identified and accepted by the Department before the Contract is signed.

The Respondent shall bring any perceived inconsistencies among any of the provisions of the ITN and its attachments to the attention of the Department prior to the submission of its Response. At any time during the solicitation, the Department may specifically identify and incorporate by reference any additional documents which are to be incorporated into the Contract. The Contract that results from this solicitation will be posted on the Internet on the Florida Accountability Contract Tracking System (FACTS) in accordance with section 215.985, F.S., “Transparency Florida Act.”

### 3.9 Disclosure of Response Contents

All documentation produced as part of the ITN will become the exclusive property of the Department and will not be returned to the Respondent unless it is withdrawn prior to the Response opening in accordance with section 3.10. Once the Procurement Officer opens the Responses, the Responses may be disclosed pursuant to a public records request, subject to any confidentiality claims and the timeframes identified in section 119.071(1)(b)2, F.S.

If the Respondent includes confidential, proprietary, or trade-secret information in its Response, the Respondent is responsible for fully complying with the requirements of ITN section 4.5.



### **3.10 Withdrawal of Responses**

Respondents may modify or withdraw a Response at any time prior to the Deadline to Submit Responses noted in the Timeline by submitting a request to the Procurement Officer.

### **3.11 Clarifications**

The Department may request clarification from the Respondent for the purpose of resolving ambiguities or questioning information presented in the Response. At any time during the solicitation process, the Department may request, and the Respondent shall provide, supporting information or documentation. Failure to supply supporting information or documentation as required and requested may result in disqualification or rejection of the Response. The Respondent's answers to requested clarifications must be in writing and must address only the information requested. Respondent's answers to requested clarifications must be submitted to the Department within the time specified by the Department in the requested clarification.

### **3.12 Information from Other Sources**

The Department reserves the right to seek information from outside sources and may review and rely on relevant information that the Department obtains outside of the Responses.

### **3.13 Diversity**

The Department is dedicated to fostering the continued development and economic growth of small, minority-, veteran-, and women-owned businesses. Participation of a diverse group of Respondents doing business with the State is central to the Department's effort. To this end, minority-, veteran-, women-owned, and small business enterprises are encouraged to participate in the State's procurement process as both prime Respondents and subcontractors under prime contracts.

## Section 4 Response Instructions

### 4.1 General Instructions to Respondents

The “General Instructions to Respondents” Form PUR 1001 is incorporated by reference and can be accessed at:

[http://dms.myflorida.com/business\\_operations/state\\_purchasing/documents\\_forms\\_references\\_resources/purchasing\\_forms](http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms)

The following sections of the PUR 1001 are inapplicable and superseded by this ITN as noted:

**Section 3. Electronic Submission of Responses:** Responses shall be submitted as required in section 4.4.

**Section 5. Questions:** Questions shall be submitted as required in section 3.2.2.

The following sections of the PUR 1000 are inapplicable and superseded by this ITN as noted:

**Section 2. Purchase Orders,** omit the first three sentences;

**Section 4. Price Changes Applicable only to Term Contracts** is hereby amended to remove subsection (b), Best Pricing Offer, and (e), Equitable Adjustment;

**Section 20. Limitation of Liability;**

**Section 27. Purchase Order Duration;**

**Section 31. Dispute Resolution;** and

**Section 43. Cooperative Purchasing.**

The Special Instructions are in the sections below starting with section 4.2. In accordance with Rule 60A-1.002(7), F.A.C., in the event any conflict exists between the Special Instructions and General Instructions, the Special Instructions shall prevail.

### 4.2 MyFloridaMarketplace (MFMP) Registration

Respondents must have a current vendor registration in MFMP. <https://vendor.myfloridamarketplace.com/>.

The awarded Respondent(s) will be required to pay the required transaction fees as specified in PUR 1000, section 14, unless an exemption has been requested and approved prior to the award of the Contract pursuant to Chapter 60A-1, F.A.C.

### 4.3 Respondent Eligibility

4.3.1 The Department will evaluate Responses from responsive and responsible Respondents that meet the requirements of Attachment F, Mandatory Criteria Certification, and provide the mandatory documentation listed in the Mandatory Criteria Certification and elsewhere in this solicitation.

#### 4.3.2 Eligibility to receive a contract

The Department may not proceed with a contract award if a conflict of interest is based upon the vendor gaining an unfair competitive advantage pursuant to section 287.057(17)(b), F.S., and section 287.057(17)(c), F.S., states in part:

“[a] person who receives a contract that has not been procured pursuant to subsections (1)-(3) to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a Solicitation or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract.”

### 4.4 How to Submit a Response

The Department is not liable for any costs incurred by a Respondent in responding to this solicitation. The Respondent is required to examine carefully the contents of the ITN and be thoroughly informed regarding all of its requirements.

Responses must be received by the Procurement Officer no later than the date and time indicated in Timeline of Events, in section 3.6 for submission of Responses.

4.4.1 One (1) original, seven (7) duplicate paper copies, and one (1) electronic copy on a CD or flash drive of the Response must be submitted to the Procurement Officer according to the following directions and at the address identified in section 1.9.

4.4.1.1 The hard copy marked “original” shall include original signatures on any documents required to be signed as part of the Response.

4.4.1.2 The hard copy marked “original” shall take precedence over the electronic version(s) of the Response and all non-“original” hard copy versions of the Response in the event of any discrepancy.

4.4.1.3 The electronic version of the Response should include the completed excel versions of Attachment C, Price Response and Attachment G, Vendor Questionnaire.

NOTE: If Respondent’s Response contains confidential or proprietary information, Respondent must follow additional instructions in section 4.5.

4.4.2 Respondent should submit each Response individually in a three ring binder. **Organize the Responses into labeled and tabbed sections in the order listed in section 5.** Each bound Response shall be labeled on the cover and the spine:

- “[Original] or [Copy # ]\_\_\_\_, Binder\_\_\_\_ of \_\_\_\_,”
- The Respondent’s legal name,
- The ITN number, and
- “[Contains] or [Does NOT Contain] Confidential Information exempt from Public Records Disclosure”

4.4.3 Respondents shall deliver the Responses in **sealed** package(s) to the Purchasing Office at 200 East Gaines Street, Larson Bldg., Room B24 – Office of Purchasing and Contractual Services, Tallahassee, Florida 32399-0317 by the deadline listed in the Timeline of Events,

section 3.6. The Respondent shall clearly label the outside of the sealed packages with the solicitation number and company name.

## 4.5 How to Submit a Redacted Response

In addition to the public records requirements of the PUR 1001, section 19, if the Respondent considers any portion of its Response to be Confidential Information or exempt under Chapter 119, F.S., or other authority (Public Records Law), then the Respondent must simultaneously submit its original Response and a separate redacted copy of the materials the Respondent claims as Confidential Information or exempt, and briefly describe in writing the grounds for claiming exemption from the Public Records Law.

The redacted copy will be used to fulfill public records and other disclosure requests and will be posted on the FACTS website. In addition, the Department will follow the procedures identified in the Contract as Addendum A, Public Records Requirements, if the Department receives a further request for Confidential Information or exempt material that has been clearly identified as such in writing by the Respondent.

By submitting a Response, the Respondent agrees to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its Response, are Confidential Information or otherwise not subject to disclosure. If the Respondent fails to submit a redacted copy of its Response, the Department is authorized to produce the entire un-redacted Response submitted to the Department in response to a public records request.

To submit a redacted Response, the Respondent must comply with the following, in addition to all of the requirements of section 4.4:

- 4.5.1 The Respondent must prepare one (1) additional hard copy and one (1) additional electronic copy of the Response, with claimed Confidential Information redacted.
- 4.5.2 The Respondent should only redact those portions of material that the Respondent claims are Confidential Information or exempt from Public Records Law. An entire Response should not be redacted. An entire page or paragraph which contains Confidential Information or exempt material should not be redacted unless the entire page or paragraph is wholly Confidential Information or exempt from Public Records Law. In the Redacted Copy, the Respondent shall redact and maintain in confidence any materials the Department provides or seeks regarding security of a proposed technology system or information subject to sections 119.011(14), 119.071(1)(f), and 119.071(3), F.S.
- 4.5.3 The Respondent must prepare a Redacted Copy cover sheet to include in both the hard copy and electronic copy of the redacted Response that briefly describes, in writing, the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption.
- 4.5.4 The Respondent must prepare an index listing all confidential sections of its Response and place it into TAB 1 – Introduction and Administrative Response of all redacted and un-redacted copies of the Response as described in section 5.3.
- 4.5.5 On the cover and spine of the binding of the hard copy of the redacted Response, in addition to the requirements of ITN section 4.4.2 place:
  - “REDACTED COPY OF RESPONSE, Binder \_\_\_\_ of \_\_\_\_\_,”

- 4.5.6 The Respondent should place the electronic file(s) of its un-redacted Response into a folder titled: “UNREDACTED Response – CONTAINS CONFIDENTIAL MATERIAL.” The new electronic file containing the redacted Response should include the word REDACTED in its file name.

## **4.6 Additional Information**

By submitting the Response, Respondent certifies that it agrees to and satisfies all mandatory requirements specified in the ITN. At any time during the solicitation process, the Department may request, and the Respondent shall provide, supporting information or documentation. Failure to supply supporting information or documentation as required and requested may result in disqualification or rejection of the Response.

## Section 5 Contents of Response

**NOTE:** This section supplements PUR 1001 and includes instructions on fonts and margins, order and labeling of tabs and sections, and the locations of information. These details are important. Evaluators must review multiple Responses and locate specific information in each one. A Respondent who follows these instructions communicates its diligence and attention to detail and helps ensure that the Evaluators can locate this important information. A Respondent who fails to adhere to these instructions will not be disqualified, but has not communicated its diligence and attention to detail and has made evaluating the Response more difficult, which is not in the Respondent's best interest.

### 5.1 Contents of Response

Responsive Respondents who submitted an Intent to Respond form, Attachment E, will be invited to attend an in-person demonstration of their experience and capabilities as presented in their Responses, so written Responses should be prepared simply and economically. Responses should provide straightforward, concise replies to the Department's questions in the following sections.

Respondents are cautioned to carefully review and remove boilerplate language from the Response that has the effect of withdrawing or negating commitments the Respondent is required to make, or suggesting that the Response is not a firm offer to contract under terms consistent with the requirements of this ITN. The Department may consider any Response that includes such language non-responsive.

Responses should be double sided, typed in a standard 10-12 pt. font, with one (1) inch margins. Respondent should number all pages and place the ITN number and Respondent's name in the footer of each page. The electronic version of the Response should include completed versions of Attachment C, Price Response and Attachment G, Vendor Questionnaire, in Excel format.

Include the following information, organized as described in the following sections:

#### 5.1.1 TAB 1: Administrative Response

- (1) Cover Page
- (2) Attachment F, Mandatory Criteria Certification
- (3) Attachment G, Vendor Questionnaire
- (4) Attachment H, Award Preference for Identical Evaluation of Responses
- (5) Disclosure of Disputes
- (6) Disclosure of Legal Proceedings
- (7) Description of Redacted Copy Materials and index of redactions, if applicable

#### 5.1.2 TAB 2: Respondent Qualifications

- (1) Executive Overview
- (2) Company Profile
- (3) Prior Relevant Experience
- (4) Prior Relevant Performance References

#### 5.1.3 TAB 3: Operational Approach

#### 5.1.4 TAB 4: Contractor Staffing and Management Approach

5.1.5 TAB 5: Contract and Financial Information (**ORIGINAL RESPONSE ONLY**)

- (1) Requested modifications to Attachment 1, Standard Terms and Conditions or Attachment 2, Statement of Work
- (2) Attachment 3, Price Response (sealed)
- (3) Evidence of Financial Stability (sealed)

**5.2 TAB 1: Administrative Response (Mandatory Requirements)**

Provide the following information in the presented order:

- (a) **Cover Page** that includes:
  - (1) “Submitted to the Department of Financial Services”
  - (2) Title of Response
  - (3) ITN number
  - (4) Respondent’s legal name
  - (5) Legal name of all proposed subcontractors, if any
  - (6) Name, title, telephone number, email address, and mailing address of person who can respond to inquiries regarding the Response
- (b) Completed and **Signed** Attachment F, Mandatory Criteria Certification and supporting documentation.

The Respondent shall submit a completed Mandatory Criteria Certification. Respondents will complete the form by writing “Yes” or “No” next to each question, unless otherwise indicated in the question, and signing the form. Completion of this form is mandatory. The Respondent must meet the qualifications identified in the Mandatory Criteria Certification in order to be considered for award. Certain criteria must be validated with supporting documentation as indicated on the Mandatory Criteria Certification. The Department will not evaluate a Response from a Respondent who answers “No” to any of the criteria. Failure to meet mandatory requirements will cause rejection of the ITN Response or termination of the Contract.

- (c) Completed Attachment G, Vendor Questionnaire. Electronic version of Response should include completed Attachment G, Vendor Questionnaire in original Excel format.
- (d) Completed Attachment H, Award Preference for Identical Evaluation of Responses
- (e) Disclosure of Disputes

The Respondent shall identify all contract disputes the Respondent (including its affiliates, subcontractors, agents, etc.) has had with any customer(s) within the last three (3) years related to contracts under which Respondent provided(s) commodities and/or services in the United States on an organizational or enterprise level that may impact or has impacted the Respondent’s ability to provide the services described in this solicitation or that resulted in any judicial or quasi-judicial action to which the Respondent has been a party. The term “contract disputes” means any circumstance involving the performance or non-performance of a contractual obligation that resulted in any of the following actions:

- Identification by the contract customer that Respondent was in default or breach of a duty or performance under the contract;
- An issuance of a notice of default or breach;

- The institution of any judicial or quasi-judicial action against Respondent as a result of the alleged default or defect in performance; or
- The assessment of any fines or direct, consequential, or liquidated damages under such contracts.

For each dispute, Respondent shall list the following information:

- Identify the contract to which the dispute related;
- Explain what the dispute related to; and
- Explain whether and how dispute was resolved.

If there are no such contract disputes, the Respondent shall submit a statement confirming this fact under this title in its Response.

(f) **Disclosure of Legal Proceedings**

The Respondent must provide a statement fully describing any investigatory or regulatory action that has been undertaken and/or filed against its company or any of its affiliated subcontractors (that will be associated with performing any of the duties or responsibilities contemplated by this ITN) in the last three (3) years. Additionally, the Respondent must describe any similar litigation that has been filed against its company or such subcontractors. If an action has been filed, please identify the court, administrative tribunal, or agency before which the action was instituted, the applicable case or file number, and the status or disposition for such reported action. If no litigation or regulatory action has been taken against the Respondent or subcontractors, provide a statement to that effect.

A regulatory investigation, dispute, action, or other litigation shall be a basis for rejection of a Response if the Department determines that such a circumstance poses any risk that the Respondent may be compromised in its ability to perform the services sought in the ITN, or would tend to undermine the public trust, or would cause a lack of confidence in the propriety of the Respondent, or would otherwise result in a perceived detriment to the State.

(g) **Description of Redacted Copy Materials, if applicable**

As required in section 4.5, if the Respondent submits a Redacted Copy of its Response, the Respondent should prepare an explanation of the basis for claiming confidentiality and an index of all confidential material within the Response that is redacted in the Redacted Copy. Include page and section and line numbers, as necessary, with a simple explanation of what is redacted.

For Example: “Page 21, section 5.2 (h), second paragraph, first sentence is redacted. Describe proprietary instructions for identifying confidential information.”

### **5.3 TAB 2: Respondent Qualifications**

The information in this tab introduces the Respondent organization, its qualifications, experience, and capabilities to provide the services sought in this ITN:

(a) **Executive Overview** (limited to six (6) pages). Include:

- A brief narrative demonstrating an understanding of the Department’s needs and business objectives. The Executive Overview should also include a brief description of the Respondent’s approach to transitioning responsibilities from EFSS to the



Respondent, and approach to delivering the three (3) classifications of services described in the Statement of Work.

- A brief narrative demonstrating an understanding of the complexity of a legacy mainframe operating environment with nearly four hundred thousand data file transfers annually, and briefly introducing the Respondent's experience in managing this type of environment.
- A brief narrative of the attributes the Respondent identifies as distinguishing it from competitors, and the advantages these factors would bring to the Department.

**(b) Company Profile**

Briefly describe the history of the company, its principal place of business, locations, number of employees and its capabilities in mainframe / legacy system operations and maintenance. Note that additional details must be provided in Attachment G, Vendor Questionnaire. The Department is particularly interested in the company's stability and experience managing operations for clients, its investment in resources and training, its ability to provide reliable, responsive services, its ability to manage security and prevent data loss or theft, and its ability to support a high availability, highly critical, enterprise system.

**(c) Prior Relevant Experience**

Describe Respondent's experience in performing similar operational and enhancement services specifically contemplated in this ITN and Attachment 2, Statement of Work. Where applicable, clearly note experience working with government agencies, financial systems, and mainframe systems. Where applicable, clearly note experience working with complex, high-availability environments with hundreds of thousands of file transfers annually. Where applicable, clearly note work done by the individuals who will be assigned to the Department, as well as the overall experience of the company.

For prior relevant experience, state whether the Respondent was the prime contractor or a subcontractor and whether it worked in cooperation with a subcontractor. Where applicable, clearly note experience which included individuals who will be assigned to the Department and their role on the past engagement. Provide a detailed description of any work to be subcontracted with information describing the qualifications and relevant experience of any proposed subcontractors.

**(d) Prior Relevant Performance References**

The Respondent shall complete and attach Attachment E, Business References Form, for at least three (3) references. In order to be considered prior relevant experience, the services provided shall be ongoing or shall have been completed within the 10 years preceding the issue date of this ITN. Confidential clients shall not be included. Do not list the Department as a client reference. Firms that are currently parent or subsidiary companies to the Respondent will not be accepted as past performance references under this solicitation.

References should be available for contact during normal business hours. The Department reserves the right to contact the client references provided or conduct site visits to the client references provided to verify the Respondent's assertion of the type, size, scope, and successful execution of services. The Department reserves the right to contact clients not listed in the Response. The References provided in a Response will not become part of the Contract.

## 5.4 TAB 3: Operational Approach

The information in this tab communicates how the Respondent envisions delivering the services requested in the Statement of Work, Attachment B.

For each work stream as described in the Statement of Work, the Respondent should demonstrate the Respondent's a) understanding of the work to be done; b) capacity and capability for performing the work; and c) process and approach for managing and delivering the services requested. Respondent's approach to resource management and staffing is covered in Tab 4.

The Department is seeking innovative solutions to the maintenance and support of the FLAIR system. Respondents must demonstrate they are capable of the services the Department has requested, but if the Department should consider an alternate approach, the Respondent is encouraged to include this information in the appropriate sections as noted below.

### 5.4.1 Annual Support Work Stream

Describe Respondent's approach to providing Annual Support as required in Attachment 2, Statement of Work, sections 20.b.i and 21.a. Timeframes are particularly critical for Annual Support Activities. Specifically address:

- (a) Respondent's understanding (in its own words) of the nature and intent of the Annual Support work stream.
- (b) How does Respondent propose to manage scheduled support Activities according to the Activities calendar?
- (c) How does Respondent propose to verify that work is on schedule, and Activities will be completed on schedule?
- (d) How does Respondent propose to verify that work is completed accurately, according to the Activity Definition, and is compatible with the existing environment?
- (e) How does Respondent propose to receive and respond to FLAIR user requests?
- (f) How does Respondent propose to negotiate which Activities are included in the fixed annual price for Annual Support? Does Respondent have previous experience or leading practices to recommend a structure for negotiations?
- (g) How will Respondent estimate and determine a fixed price for Annual Support Activities?
- (h) Does the Respondent have an alternate contracting or delivery approach to propose? If so, include a clear explanation of the alternate approach, including the anticipated benefits to the State.

### 5.4.2 Service Requests Work Stream

Describe Respondent's approach to completing Service Requests as required in the Statement of Work, sections 20.b.ii and 21.b and invoicing against Service Hours as defined in Attachment 3, Price Response. Managing annual Service Hours will require a well-defined process, meticulous record-keeping, and clear communications. Specifically address:

- (a) Respondent's understanding (in its own words) of the nature and intent of the Service Request work stream.
- (b) How does Respondent propose to receive and respond to service requests? What tool(s) or methods does Respondent propose to use to receive and process Service Request tickets?

- (c) How does Respondent propose to estimate, track, and invoice for Service Hours against Service Requests? How will Respondent track Department authorization to expend Service Hours? What information does Respondent propose to include in an invoice to the Department?
- (d) How does Respondent propose to measure performance on Service Requests? Provide examples of performance metrics Respondent has implemented previously, and describe the pros and cons of those metrics.
- (e) What performance or service level metrics does Respondent propose for the response and resolution time(s) of Service Requests?
- (f) How will the Respondent estimate the number of hours to propose annually for Service Requests? How does Respondent propose handling low estimates (running out of Service Hours before the end of the fiscal year) or high estimates (having Service Hours unused at the end of the fiscal year)?
- (g) Does the Respondent have an alternate contracting or delivery approach to propose? If so, include a clear explanation of the alternate approach, including the anticipated benefits to the State.

### **5.4.3 Variable Enhancements Work Stream**

Describe Respondent's approach to managing enhancement Projects as required in the Statement of Work, sections 20.b.iii and 21.c. Addressing Variable Enhancements will require project management discipline and a broader skillset representation (covering the software development lifecycle) in the resources assigned. Specifically address:

- (a) Respondent's understanding (in its own words) of the nature and intent of the Variable Enhancements work stream.
- (b) How does Respondent propose to define the initial scope and proposed cost for a Variable Enhancement Project? Does Respondent propose to treat pre-project discovery as billable against Service Hours, or as non-billable sales activity?
- (c) How does Respondent propose to manage a Project from a time, budget, and scope perspective? Briefly describe Respondent's Project Management philosophy or approach.
- (d) How does Respondent propose to manage a Variable Enhancement Project, ensuring that:
  - (1) Appropriate stakeholders are involved in the Project definition, specifications, and testing;
  - (2) Requirements are defined fully and traceable to their source;
  - (3) Integration needs with existing system components are fully defined, with upstream and downstream effects thoroughly defined and documented;
  - (4) Any new code is written to an appropriate development standard (whether that standard is currently documented or not) and compatible with existing code;
  - (5) Any new code is fully regression tested;
  - (6) Any new code is free of defect prior to the OIT promoting code to production; and
  - (7) Any modification or enhancement is appropriately documented, and Department staff and users are appropriately trained as needed.
- (e) How does Respondent propose to integrate with the OIT's existing change management process (DIS-015) for promoting code to production?

- (f) How does Respondent plan to approach negotiations for Variable Enhancements, given no information is yet available to describe the nature of projects that might be requested in this work stream?
- (g) Does the Respondent propose to price Variable Enhancement Projects as fixed-price deliverables-based Projects, or on a time-and-materials basis? In either case, how does the Respondent propose handling low estimates (in which desired scope cannot be met within the original estimate) or high estimates (in which the scope can be accomplished in less effort than originally thought)?
- (h) Within the last two (2) years, list how many contracts or work orders has the Respondent worked where a change order was necessary due to: a) scope extension, b) schedule extension, c) cost increase, d) difference of interpretation of scope, or e) other cause (please explain). Note: this section is intended to be a snapshot. The Department does not require lengthy explanations, unless Respondent wishes to provide additional information.
- (i) Does the Respondent have an alternate contracting or delivery approach to propose? If so, include a clear explanation of the alternate approach, including the anticipated benefits to the State.

## **5.5 TAB 4: Contractor Staffing and Management Approach**

Locating and retaining skilled resources has been a challenge for the OIT. The OIT must seek out skills in systems that are rarely used for active development today (ADABAS, Natural, DB2, and COBOL), and the FLAIR systems are sufficiently complex that the OIT has found it takes an average of two (2) years before new employees are fully competent in the system.

The OIT is very interested in how the Respondent proposes to locate, train, and retain resources capable of supporting the State's financial systems. When inevitable turnover occurs, OIT would like to understand how the Respondent ensures continuity.

### **5.5.1 Contract Initiation and On-Boarding**

Attachment 2, Statement of Work, describes a robust on-boarding process. Specifically address:

- (a) Respondent's understanding (in its own words) of the Initiation Phase and onboarding process described in the Statement of Work. Include Respondent's understanding of the use and purpose of the Services Delivery Framework, Activity leads, Knowledge, Skills, and Abilities (KSAs), and Proficiency Level Ratings.
- (b) How does the Respondent propose developing the Services Delivery Framework? Has the Respondent used an operational agreement document before? If so, what lessons did the Respondent learn that could be applied to this Contract?
- (c) How does the Respondent plan to staff this Contract, if selected? Describe the Respondent's bench and pipeline, and recruitment process. Does Respondent propose to utilize subcontractors to deliver services under this Contract?
- (d) Does the Respondent plan to staff the work streams with separate resources, or train a pool of resources that receive assignments from multiple work streams?
- (e) How does the Respondent propose to identify resources as Activity leads? How will the Respondent ensure that proposed leads have the necessary KSAs to be trained by Department Staff?

- (f) How does the Respondent propose to approach Activity training with EFSS staff? Does Respondent propose working on or off site? Does Respondent propose using a particular training approach or curriculum? If so, describe Respondent's previous experience with the proposed approach and the pros and cons of the approach for the State.
- (g) How does Respondent propose approaching the assignment of Proficiency Level Ratings on Contractor Personnel by Department staff? How does Respondent propose handling disagreements on assigned Proficiency Level Ratings (either because Respondent believes resource requires more training, or because Respondent believes resource has not been rated highly enough)?
- (h) How will the Respondent develop a proposed cost for the Contract Initiation Phase, including developing the Services Delivery Framework, and completing the onboarding and training process?
- (i) Does the Respondent have an alternate contracting or delivery approach for onboarding and transition? If so, include a clear explanation of the alternate approach, including the anticipated benefits to the State.

### **5.5.2 General Employee Management**

- (a) Describe Respondent's overall employee management structure. Include an organization chart if pertinent.
- (b) How does Respondent assign work to resources? How do resources confirm receipt of assignment and verify capability to deliver?
- (c) Describe Respondent's internal training and mentoring processes.
- (d) How does Respondent internally measure the performance of employees, subcontractors, or agents?
- (e) Will resources assigned to the Contract be full-time, exclusive? If not, how will Respondent manage overall resource availability to ensure responsiveness to the services in the Contract?
- (f) How will the Respondent capture the intellectual property obtained by Contractor Personnel during onboarding and ensure that information is shared with future resources assigned to this Contract?
- (g) How does the Respondent propose to manage onboarding and training new resources once the initial Personnel have obtained a Level Three proficiency rating?

### **5.5.3 Annual Support Team**

Describe the KSA profile the Respondent will look for in assigning resources to Annual Support responsibilities. Provide one representative resume of a resource the Respondent would consider qualified to assign to the Annual Support Team. Note that resume must be of a Personnel member that could potentially be assigned to this Contract.

### **5.5.4 Service Request Team**

- (a) Describe the KSA profile the Respondent will look for in assigning resources to the Service Request responsibilities. Provide one representative resume of a resource the Respondent would consider qualified to assign to the Service Request Team. Note that the resume must be from a Contractor Personnel member that could potentially be assigned to this Contract.

- (b) If the same resources will be assigned to Annual Support responsibilities and Service Request responsibilities, how will the Respondent ensure that the resource is not billing time against both work streams for the same work?

#### **5.5.5 Variable Enhancements Work Stream**

- (a) How does Respondent propose selecting resources for a Variable Enhancement Project? Does Respondent propose using Annual Support or Service Request resources for Project work? If so, how will Respondent ensure continuity of operations for Annual Support and Service Requests? If not, how will Respondent select and train Project resources in a timely manner?
- (b) How will the Respondent ensure that Service Requests and Variable Enhancement Projects do not overlap and Respondent is not charging the State for the same work under both work streams?
- (c) How does Respondent propose to manage prioritization and pipeline for Project requests? How does Respondent propose addressing a requested Project that Contractor does not have capacity for?
- (d) Provide up to two (2) representative resumes of the experience and skillsets of a typical Respondent Project Manager (see Statement of Work roles and responsibilities). Note that resumes must be from Personnel members that could potentially be assigned to this Contract.

#### **5.5.6 Other Considerations**

- (a) How will Respondent ensure that no malicious or faulty code is introduced into the State's financial systems, either deliberately or accidentally? How does Respondent propose to monitor and safeguard Respondent's employees, subcontractors, and agents to ensure individuals do not have the motive, opportunity, or rationalization to commit fraud within the State financial systems?
- (b) How will Respondent approach negotiating Contract clauses that hold Respondent financially responsible for loss or breach of State Data caused by Respondent resources?
- (c) How will Respondent approach negotiating Contract terms that hold the Respondent solely responsible for selecting qualified resources to deliver the services under this Contract?

### **5.6 TAB 5: Contract and Financial Information (Include in "Original" Response Only)**

Include the following information in the Response marked "Original" **only**. In the electronic copy of the Response, place the following files in a sub-folder titled "Contract and Financial Information." In Respondent's electronic submission, in addition to the Response, Respondent must include original Word or Excel files for requested Contract modifications and Price Response.

- (a) Respondent's requested **exceptions or modifications** to the Attachment 1, Contract Signature Page and Standard Terms and Conditions or Attachment 2, Statement of Work, for discussion during negotiations.

- (b) Envelope 1: Completed Attachment 3, **Price Response**

Respondent will complete Attachment 3, Price Response according to its embedded instructions, and place it in a separate, sealed envelope. Respondent will label the outside of the envelope with its contents, the ITN number, and the Respondent's legal name. The

Price Response must be based on the assumption that the Standard Contract Terms and Conditions as attached to this ITN will apply. Electronic version of Response should include completed Attachment 3, Price Response in original Excel format. Excel document can be requested from the Procurement Officer, see section 2.

(c) Envelope 2: **Evidence of Financial Stability**

Respondents must be determined by the Department, at its sole determination, to be financially capable of providing the services required in this ITN.

Respondents must submit its most recent three (3) years of independently audited financial statements as evidence of sufficient financial resources and stability for the Respondent to provide the services sought. **The financial information will not become part of the Contract.** If audited financial statements are not available, the Respondent must submit its most recent three (3) years of Certified Professional Accountant-reviewed financial statements, which shall include, at a minimum, a balance sheet, an income statement, a statement of cash flows, and notes to the financial statements. If neither audited nor reviewed financial statements are available, Respondent shall submit federal income tax returns for the three (3) most recent years.

If a Respondent submits a consolidated financial statement of its parent corporation, the parent corporation must serve as the Respondent's financial guarantor, execute the Contract as the guarantor, and will be held accountable for all terms and conditions of the Contract. The Department will hold all parties jointly and severally responsible for carrying out all activities required by the Contract.

Respondent will place the responsive documents into a separate, sealed envelope. Respondent will label the outside of the envelope with its contents, the ITN number, and the Respondent's legal name.

## Section 6 Selection Methodology

The Department's evaluation team will consist of at least three (3) persons who collectively have experience and knowledge in the program area and service requirements for the commodities and contractual services sought. Alternate evaluators may be selected to participate in the process in the event an appointed evaluator cannot complete scoring.

After demonstrations, each evaluator, working independently, will score the Respondent against the following selection criteria, using the Evaluation Worksheet, Attachment K.

A Subject Matter Expert (SME) who is a Florida Certified Public Accountant will review the Respondent's financial materials and disclosures and will provide a narrative summary of the SME's review to all Evaluators. The SME will not evaluate or communicate an opinion regarding the strength of the Respondent's financial position.

### 6.1 Experience and Ability Evaluation Criteria

- (a) Respondent's financial stability and articulation of its capabilities as a managed services provider capable of supporting a complex mainframe-based financials system with hundreds of thousands of data transfer interfaces annually (max 80 points).
  - (1) The Respondent is an operations services provider with experience supporting environments substantially similar to the Department.
  - (2) The Respondent demonstrated that it has sufficient history in the market to indicate firm stability.
  - (3) The Respondent demonstrated that it has sufficient reputation and reach in the market to effectively recruit resources.
  - (4) The Respondent's financial statements and disclosures appear to reflect a firm capable of supporting the scope and duration of this Contract.
- (b) Respondent's references, experience in government environments, and experience providing services similar to the Statement of Work (max 180 points).
  - (1) The Respondent demonstrated that it has multiple engagements or clients in which it has successfully supported contracts of substantially similar size and scope for the services sought.
  - (2) The Respondent effectively demonstrated that it has successfully provided similar services to government agencies.
  - (3) The Respondent effectively demonstrated that it has successfully implemented enhancements in complex legacy environments.

The following items will be considered from responses that OIT obtains from the Respondent's references. The Program Lead assisting the evaluation team, or his or her designee, will use the references questionnaire found in Attachment J and will contact each reference to capture the reference's input. The Program Lead will then forward the documented Responses to the evaluation team. The Program Lead will not interpret the reference's feedback or provide an opinion on the information collected.

- (4) The services described by the references were relevant to the services sought via the ITN.



- (5) The references communicated and confirmed the Respondent's experience successfully providing substantially similar services to government agencies.
- (6) The references communicated and confirmed the Respondent's ability to successfully provide the requested services.
- (7) No major issues or concerns were identified by the references.

## **6.2 Service Delivery and Execution Evaluation Criteria**

- (a) Respondent's articulation of its understanding of the Department's needs, services management approach, the innovation of the approach, and the ability of the approach to meet the Department's needs and the requirements of this ITN (max 160 points).
  - (1) The Respondent proposed an effective approach to supporting the FLAIR system's daily, weekly, monthly, quarterly, and annual operations.
  - (2) The Respondent proposed an effective approach to manage the assignment, reporting, and invoicing of multiple work streams and service requests with sufficient record-keeping to meet Department audit requirements.
  - (3) The Respondent proposed an approach that should safeguard the FLAIR system from untested or faulty enhancement code.
  - (4) The Respondent proposed performance measures for the work streams that demonstrate effective management of Activities required by the Contract.
  - (5) The Respondent described a reasonable methodology for estimating costs for Service Requests and Variable Enhancement projects. The methodology is based on experience or predictable parameters and includes a "true-up" of actual hours or costs the Department incurs at a known interval.
- (b) Respondent's staffing practices, process for assigning work, and approach to managing Contractor Personnel. (max 180 points).
  - (1) The Respondent effectively demonstrated a mature process for locating, hiring, training, and retaining resources.
  - (2) The Respondent demonstrated sufficient "bench strength" to service multiple work streams simultaneously.
  - (3) The Respondent demonstrated an understanding of the goals of the on-boarding process described in the Statement of Work and proposed an approach that satisfied those goals.
  - (4) The Respondent articulated an effective control structure to ensure the Department is not billed for the same work under different work streams.
  - (5) The Respondent clearly described controls in place to ensure no malicious code is deliberately or accidentally introduced into the State's systems, and has mature, multi-faceted fraud prevention and detection controls to monitor Contractor Personnel.

## **6.3 Written and Demonstration Response Scoring**

The Department will evaluate each Response against a possible 800 points. 200 points are reserved for the Price Response score. The distribution of the remaining 600 points is described in the table

below. The basis for awarding points is the evaluators' review of the Response, the Respondent's in-person demonstration, and participation in question and answers.

<b>Evaluator Response to Criteria Statements</b>	<b>Description Detail</b>	<b>% of possible points</b>
Strongly Agree	Written Response clearly demonstrates criteria, proposes innovative or valuable approaches, or exceeds EFSS requirements. Demonstration was very consistent with written Response.*	100%
Agree	Written Response adequately demonstrates criteria, but does not display any particular innovation, or understanding of the State's needs. Demonstration was generally consistent with written Response.*	75%
Partially Agree	Written Response partially demonstrates criteria, but lacks sufficient detail or presents contradicting information. Demonstration may have been inconsistent with the written Response in one or more areas.*	50%
Disagree	Written Response was not found to address the criteria in question. Respondent did not demonstrate criteria.*	0%

\* Respondents that do not participate in Demonstrations are only eligible for a maximum of 90% of the possible points for Experience and Ability and Service Delivery and Execution.

	<b>Possible Points (out of 800) With Demonstration participation</b>	<b>Possible Points (out of 740) Without Demonstration participation</b>
<b>Experience and Ability</b>		
Respondent's financial stability and articulation of its capabilities as a managed services provider capable of supporting a complex mainframe-based financials system with hundreds of thousands of data transfer interfaces annually.	80	72
Respondent's references, experience in government environments, and experience providing services similar to the Statement of Work.	180	162
<b>Service Delivery and Execution</b>		
Respondent's articulation of their understanding of the Department's needs, their services management approach, the innovation of the approach, and the ability of the approach to meet the Department's needs and the requirements of this ITN.	160	144
Respondent's staffing practices, process for assigning work, and approach to managing employees, subcontractors, and agents.	180	162
<b>Price Response</b>	200	200

## 6.4 Price Response Scoring

The Department recognizes that Respondents will be unable to price certain Deliverables in their written Response. Until the Department finalizes a Statement of Work with a Respondent during negotiations, the Respondent will have insufficient information on which to base a firm, fixed price.

Therefore, the Procurement Officer will consider only two values in calculating Attachment C, Price Response. The Procurement Officer will consider the Service Request hourly rate and the Comparative Benchmark rate. Each value accounts for 50% of the possible points awarded for price response.

The Procurement Officer will calculate both values, and award each rate a possible maximum score of 100 points, for a combined price response maximum score of 200 points. The score for the Price Response will be determined based on the following formula:

**Service Request Hours:**  $(\text{Lowest Respondent's Hourly Price} / \text{Respondent's Price}) \times (100 \text{ possible points}) = \text{Points Awarded for Service Request hourly rate.}$

**Comparative Benchmark Rate:**  $(\text{Lowest Respondent's Price} / \text{Respondent's Price}) \times (100 \text{ possible points}) = \text{Points Awarded for Comparative Benchmark rate.}$

**Total Price Response Score** = Service Request Hours points + Comparative Benchmark points

## **Section 7 Negotiations**

### **7.1 Negotiation Team**

The Department's negotiation team will consist of at least three (3) persons who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and services requirements for which commodities or contractual services are sought. Alternate negotiators may be selected to participate in the process in the event an appointed negotiator cannot complete negotiations.

### **7.2 Negotiations**

After Evaluation, the Procurement Officer will compile the final evaluation scores to determine the competitive range of Responses reasonably susceptible of award (Competitive Range). The Department may then select one or more Respondents within the Competitive Range with which to commence negotiations (concurrently or sequentially), or may reject all Responses. The Department will establish a negotiation team to conduct the negotiations and make an award recommendation after determining which Respondent presents the best value based on the selection criteria identified in section 7.7.

Selected Respondent(s) will be invited to provide more detailed clarifications of their Responses, to provide interactive presentations of the Responses, and to enter into negotiations with the Department. Any information that the Respondent provides during negotiations constitutes an Interim Revised Response (IRR) and becomes part of the Respondent's Response. Failure to provide requested information may result in rejection of the Response.

Based on the clarifications, presentations and negotiations, the Department will either award the Contract to the Respondent(s) who provides the best value for the Department and the State or reject all Responses. The Department may at any time during the negotiations eliminate a Respondent from further consideration or stop negotiations with a Respondent. Additionally, the Department reserves the right to conclude negotiations at any time and proceed to contract award.

The negotiation team may consider any information obtained during Evaluation but is not bound by evaluation team scoring. The negotiation team may reassess any of the evaluation determinations and may consider any additional information that comes to its attention during the negotiations.

The Department is not bound to enter into a contract with any Respondent unless the Respondent is determined to provide best value to the State and the Department is able to negotiate the conditions and cost that it considers fair, competitive, and reasonable. This procurement will not result in an exclusive license to provide the services or products described in this ITN or the resulting Contract. The Department may, in compliance with applicable law, contract with other Respondents to provide the same or similar services.

Negotiations may include discussions of the terms, conditions, costs, statement of work, and related services to be provided by the Respondent. The negotiation team will not engage in scoring, but will arrive at its recommendation by discussion during a public meeting.

Respondents may be provided an opportunity to recommend enhanced value alternatives and provide information and options during negotiations. The Department reserves the right to negotiate

different terms and related price adjustments if the Department determines that such changes would provide the best value to the State. The negotiation team may address each proposed alternative during negotiations but is under no obligation to accept a proposed alternative. If the negotiation team determines that a proposed alternative is not acceptable and the Respondent fails to offer another alternative that is acceptable to the negotiation team, the Respondent may be eliminated from further consideration or the negotiation team may stop negotiation with that Respondent.

### **7.3 Negotiation Location and Attendance**

The Department will schedule negotiation sessions and distribute instructions and/or agendas in advance of each negotiation session. The negotiation sessions will be conducted in Tallahassee, Florida (FL). The representatives for each Respondent must plan to be available in person, without interruptions, for the entirety of the Respondent's scheduled negotiation session(s) in Tallahassee, FL. On-site representatives must include at least one (1) individual who is qualified and authorized to negotiate contractual terms and conditions (legal terms and conditions), at least one (1) individual who is qualified and authorized to negotiate business agreements (scope, acceptance criteria, pricing), and individual(s) who are relevant to the delivery of services under the Contract (team leaders, managers, key technical resources, etc.). The Department reserves the right to require attendance at negotiation sessions by particular representatives of the Respondent.

### **7.4 Revised Responses and Best and Final Offers**

During the Negotiation Phase, the Department may request clarification and revisions to Responses (including BAFOs and revised BAFOs) until it is satisfied that it has achieved the best value to the State.

### **7.5 Other Department Rights During Negotiations**

The Department reserves the right at any time during the Negotiation Phase to:

- (a) Schedule additional negotiation sessions with any or all responsive Respondents.
- (b) Require any or all responsive Respondents to provide additional, revised, or final Responses addressing specified topics.
- (c) Require any or all responsive Respondents to provide a written BAFO.
- (d) Require any or all responsive Respondents to address services, prices, or conditions offered by any other Respondent.
- (e) Arrive at an agreement with any responsive Respondent, finalize principal Contract terms with such Respondent, and terminate negotiations with any or all other Respondents, regardless of the status of or scheduled negotiations with such other Respondents.
- (f) Decline to conduct further negotiations with any Respondent.
- (g) Re-open negotiations with any Respondent.
- (h) Take any additional administrative steps the Department deems necessary in determining the final award, including additional fact-finding, evaluation, or negotiation where consistent with the terms of this ITN. The Department does not anticipate reopening negotiations after receiving the BAFOs, but reserves the right to do so if it believes doing so will be in the best interests of the State.
- (i) Review and rely on relevant information contained in the Responses, or presented in Demonstrations.

- (j) Review and rely on relevant information that the Department obtains outside of the Responses
- (k) Include subject matter experts or other interested persons in negotiations with vendors, vendor presentations, and meetings at which negotiation strategies are discussed.

## **7.6 Negotiation, Demonstration, and Presentation Meetings Not Open to Public**

Negotiation, demonstration, and vendor presentation meetings between the Department and Respondents are temporarily exempted from public meetings requirements according to Sub-paragraph 286.0113(2)(b)1., F.S. Meetings at which negotiation strategies are discussed are exempted by sub-paragraph 286.0113(2)(b)2, F.S. The Department will record all meetings of the Negotiation Team, as required by law, and such recordings, except to the extent identified as exempt or confidential and exempt, will eventually become a public record. During negotiations, a Respondent must inform the Department if any portion of the meetings should be considered exempt or confidential and exempt because of discussions of trade secrets or other Confidential Information so that the Department can make appropriate arrangements for the segregation of the recording.

## **7.7 Selection Criteria**

Each Response will be evaluated against the selection criteria determined by the negotiation team, which may include the selection criteria below:

- Respondent's articulation, innovation, and demonstrated ability of the proposed approach to meet the Department's goals and the requirements of this ITN;
- Experience and skills of Respondent's proposed staff relative to the proposed approach; and
- Respondent's pricing and overall costs to the Department.

The Department will consider the total cost of the Contract, including renewal years as submitted by the Respondent.

The negotiation team may modify or add to these selection criteria, provided that such changes are disclosed to all Respondent(s) engaged in such negotiations. The negotiation team members will not numerically score Respondent(s); the final decision of which Respondent will be recommended for award may be made based by a majority vote of the negotiation team members.

## **Section 8     AWARD**

### **8.1     Basis of Award**

A Contract(s) may be awarded to the responsible and responsive Respondent(s) whose Response is deemed to be the best value to the State, in consideration of price and selection criteria in this ITN. The Department reserves the right to award regional contracts for all or for part of the work contemplated by this solicitation.

The Department reserves the right to accept or reject any or all offers, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the best interest of the State. The Department has the right to use any or all ideas or adaptations of the ideas presented in any Response. Selection or rejection of a Response will not affect this right.

In submitting a Response, a Respondent agrees to be bound to the terms of General Contract Conditions (PUR 1000) and to negotiate the Contract, in good faith. Respondents must assume those terms will apply to the final Contract, but the Department reserves the right to negotiate different terms and related cost adjustments if the Department determines that those different terms and related costs adjustments will provide the best value to the State during the negotiation phase. Respondents whose past performance, current status, or Response does not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of the Contract may be rejected.

### **8.2     Award Preferences for Identical Evaluations of Responses**

In the event that the Department's evaluation results in identical evaluations of Responses, the Department will consider Attachment H, Award Preference for Identical Evaluation of Responses. Based on Attachment H, the Department will give the award to a Respondent if it is a minority-owned or veteran-owned business. If more than one (1) Respondent is entitled to this preference, the preference will be given to the Respondent with the qualifying business with the smallest net worth, consistent with section 295.187(4)(b), F.S. If the award cannot be decided based on this preference, the Department will apply the criteria identified in Rules 60A-1.011(1), 60A-1.011(3), and 60A-1.011(4), F.A.C., in that order of precedence.

### **8.3     The Department's Recommendation of Award**

The negotiation team will develop a recommendation as to the award(s) that will be submitted to the Chief Financial Officer or his designee.

### **8.4     Chief Financial Officer's Approval**

The Chief Financial Officer or his designee will make the final determination for award after receiving the negotiation team's recommendation.

### **8.5     Posting of Decision**

The Department will post a Notice of Intent to Award, stating its intent to enter into one (1) or more Contracts with the Respondent(s) identified therein, on the VBS website ([http://vbs.dms.state.fl.us/vbs/main\\_menu](http://vbs.dms.state.fl.us/vbs/main_menu)). If the Department decides to reject all Responses, it will post its notice on the same VBS website.

## **8.6 Execution of Contract**

The awarded Respondent shall sign the Contract within thirty (30) calendar days of receipt of the Contract for execution, unless there is an automatic stay triggered by the filing of a formal protest. If a formal protest is timely filed, the time to sign the Contract shall be tolled. The Department reserves the right to withdraw its Notice of Intent to Award if the Contract is not timely signed, if it determines in its sole discretion that it is in the best interest of the State to do so. The Department also reserves the right to award to another Respondent that submits a BAFO if the Department does not receive a timely signed Contract from the awarded Respondent.



# **Attachment A**

Contract Signature Page

Contract Attachment 1, Standard Terms and Conditions

# Attachment B

Contract Attachment 2, Statement of Work

# **Attachment C**

Contract Attachment 3, Price Response

Complete and return with Response.

Electronic version of Response should include completed Attachment C in original Excel format.

See also section 2, Supporting Documentation

# **Attachment D**

Contract Addendum A, Public Records Requirements

Contract Addendum B, Data Security Requirements

Contract Addendum C, Glossary

# **Attachment E**

Intent to Respond Form

Please complete and return to the Department as described in section 3.2.3.

# **Attachment F**

Mandatory Criteria Certification

Complete and return with Response.

# **Attachment G**

Vendor Questionnaire

Complete and return with Response.

Electronic version of Response should include completed Attachment G in original Excel format.

See also section 2, Supporting Documentation

# **Attachment H**

Award Preference for Identical Evaluation of Responses

Complete and return with Response.



# **Attachment J**

Client Reference Form

Complete and return with Response.

# Attachment K

Evaluation Worksheet

**State of Florida  
PUR 1000  
General Contract Conditions**

**Contents**

1. Definitions.
2. Purchase Orders.
3. Product Version.
4. Price Changes Applicable only to Term Contracts.
5. Additional Quantities.
6. Packaging.
7. Inspection at Contractor's Site.
8. Safety Standards.
9. Americans with Disabilities Act.
10. Literature.
11. Transportation and Delivery.
12. Installation.
13. Risk of Loss.
14. Transaction Fee.
15. Invoicing and Payment.
16. Taxes.
17. Governmental Restrictions.
18. Lobbying and Integrity.
19. Indemnification.
20. Limitation of Liability.
21. Suspension of Work.
22. Termination for Convenience.
23. Termination for Cause.
24. Force Majeure, Notice of Delay, and No Damages for Delay.
25. Changes.
26. Renewal.
27. Purchase Order Duration.
28. Advertising.
29. Assignment.
30. Antitrust Assignment
31. Dispute Resolution.
32. Employees, Subcontractors, and Agents.
33. Security and Confidentiality.
34. Contractor Employees, Subcontractors, and Other Agents.
35. Insurance Requirements.
36. Warranty of Authority.
37. Warranty of Ability to Perform.
38. Notices.
39. Leases and Installment Purchases.
40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

41. Products Available from the Blind or Other Handicapped.
42. Modification of Terms.
43. Cooperative Purchasing.
44. Waiver.
45. Annual Appropriations.
46. Execution in Counterparts.
47. Severability.

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

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

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

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

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

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

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

**4. Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

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

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

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

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

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

**6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to

accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

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

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

**9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

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

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

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

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

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

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

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

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

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

**15. Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may

require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

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

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

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

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

**18. Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the



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

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

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

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

**20. Limitation of Liability.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the

greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

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

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

**22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

**23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for

failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**24. Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

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

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

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

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

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

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

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

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

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

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

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

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

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

**32. Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification.

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

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

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

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

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

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

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

**39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

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

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

**42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon

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

**43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

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

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

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

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

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



**State of Florida  
PUR 1001  
General Instructions to Respondents**

**Contents**

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

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

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

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

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

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

**4. Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

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

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

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

**6. Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also

disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

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

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

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

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

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

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential

respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.

- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

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

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

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

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

**13. Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](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.