

QUESTIONS/ANSWERS ASKED DURING PRE-BID CONFERENCE FOR ITB #  
DOH10-055 ON-SITE SERVICE FOR JAX HVAC CHILLER SERVICE-  
MAINTENANCE

QUESTION 1: Is this a full/total maintenance contract? What is included in the full/total maintenance contract? Parts? Labor?

ANSWER 1: Yes this is a full/total maintenance agreement refer to 3.0 General Requirements 7. Provide all parts, refrigerants (up to 50lbs per occurrence), oil, lubricants, sealant and other materials for inspections, preventive maintenance and repairs. All costs shall be included in the yearly maintenance agreement cost.

QUESTION 2: Is there an After Hours Emergency in the contract? What constitutes an After Hours Emergency?

ANSWER 2: Emergency service is required under 3.0 General Requirements #6. Provide Twenty four (24) hour, seven (7) days a week emergency service as required for adjustments, resetting controls, diagnosis and repair of trouble.

QUESTION 3: Is the After Hours Emergency included in the current contract?

ANSWER 3: Yes.

QUESTION 4: How much replacement refrigerant will be covered in the service/maintenance contract?

ANSWER 4: The vendor is responsible for 50lbs per occurrence; 3.0 General Requirements 7. Provide all parts, refrigerants (up to 50lbs per occurrence), oil, lubricants, sealant and other materials for inspections, preventive maintenance and repairs. All costs shall be included in the yearly maintenance agreement cost.

QUESTION 5: Is the current contract/bid public knowledge? What is the current pricing? Can a copy be obtained?

ANSWER 5: The current contract/bid is public knowledge. Last year pricing was \$ 14,802.00. Yes, a copy of the previous contract/bid is attached.

QUESTION 6: Was an Eddy test done on the current contract? Can a copy of the results be obtained?

ANSWER 6: The last eddy currents were in 2005 see attached reports.

QUESTION 7: Are there oil sample results? Can copies be obtained?

ANSWER 7: See attached reports.

QUESTION 8: When will the bid/contract be in place?

ANSWER 8: It should be in place by March 1, 2011.



Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A.  
Secretary

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**Addendum #1**

DATE: December 30, 2004  
TO: Prospective Vendors

FROM: Janice Brown, Purchasing Analyst  
Department of Health, Purchasing

SUBJECT: Addendum to DOH04-101 Full Service Preventive HVAC Maintenance

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**ADDENDUM #1**

The purpose of this addendum is to clarify information contained in the Invitation to bid.

**Attachment I – Specifications**

The following is added to General Requirements Item #9, Page 14:

**The eddy test shall include the evaporator and condenser. An initial inspection and eddy test shall be completed within 45 days of the notice of award. The Contractor shall not be responsible for any pre-existing repairs determined by the initial inspection or eddy test. A written report must be submitted to the Department of Health, Bureau of Laboratories within the 45-day period. It will be the responsibility of the Department to repair any pre-existing condition**

The following is added to Operating Inspections, Page 15

**March Inspection shall be replaced with the initial inspection/eddy test with 45 days of notice of award (as indicated in question 10 of the attached questions and answers document).**

Comprehensive Annual Inspections #1, #4, and #8 are amended as follows:

- 1. Change to read: Change compressor oils as needed based on the oil analysis.**
- 4. Add sentence: For the Trane Chiller – leak check chiller under 5 PSI positive.**
- 8. Add sentence: Any independent lab written test reports must be reported within 30 days. Any critical findings or emergency repairs must be reported immediately to the Department of Health, Bureau of Laboratories representative.**

Please sign and date this addendum notice and return with your proposal.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
(Authorized Representative)

Company \_\_\_\_\_

**FULL SERVICE ANNUAL PREVENTIVE HVAC MAINTENANCE  
DOH BID 04-101**

**QUESTIONS & ANSWERS**

- 1. When was the most recent eddy current testing performed, and can we obtain test results?**
  - A. No, eddy current tests have been done on the chillers.
  
- 2. Is it an accurate assumption that maintenance is limited to the chillers only, and that cooling towers, pumps and water treatment are not included in the scope?**
  - A. Yes. The cooling towers pumps and chemical treatment are not in this scope of work.
  
- 3. Who was the previous service vendor for the chillers? Can we obtain copies of the reports?**
  - A. York, yearly service expired in July. Written reports are on file and available upon request.
  
- 4. Are water treatments being done on the systems?**
  - A. Yes, Monthly
  
- 5. Is replacement of the installation being considered on two York chillers?**
  - A. We are considering it in the future.
  
- 6. Can we have a copy of the attendance sheet?**
  - A. Yes, copies were handed out to all the attendees.
  
- 7. General Requirements, pg. 14, #7, will the vendor be required to provide all the items listed?**
  - A. Yes, the vendor will be responsible for all the items.
  
- 8. Are the cooling towers serviced?**
  - A. Yes, in house.
  
- 9. Is the bid just for the chillers themselves not the pumps, valves, and control systems?**
  - A. Yes

**QUESTIONS – REQUIRING MODIFICATION TO THE SPECIFICATIONS:**

**Addendum # 1 will be issued for the following**

**1. Since an Eddy test has not been done and the existing condition is unknown, would we consider an initial eddy test and inspection? Will the awarded vendor be responsible for any pre-existing condition?**

**A. The specification shall be amended as follows:**

**Add under General requirements, pg. 14, item 9.**

**The eddy test shall include the evaporator and condenser. An initial inspection and eddy test shall be completed within 45 days of the notice of award. The Contractor shall not be responsible for any pre-existing repairs determined by the initial inspection or eddy test. A written report must be submitted to the Department of Health, Bureau of Laboratories within the 45-day period. It will be the responsibility of the Department to repair any pre-existing condition.**

**2. Add under Operating Inspections Schedule, pg. 15.**

**March Inspection shall be replaced with the initial inspection/eddy test with 45 days of notice of award (as indicated above in, question 10).**

**3. Comprehensive Annual Inspection change the following specification items 1, 4 and 8 to read:**

**1. Change to read: Change compressor oils as needed based on the oil analysis.**

**4. Add sentence: For the Trane Chiller – leak check chiller under 5 PSI positive.**

**8. Add sentence: Any independent lab written test reports must be reported within 30 days. Any critical findings or emergency repairs must be reported immediately to the Department of Health, Bureau of Laboratories representative.**

Florida Department of Health

Invitation to Bid

Full Service Annual Preventive HVAC Maintenance  
DOH04-101

Issued by:  
Department of Health  
Bureau of Laboratories  
1217 Pearl Street  
Hanson Building, Room 110  
Jacksonville, Florida 32202

Vendor Name: \_\_\_\_\_

Vendor Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Federal Employer Identification Number (FEID): \_\_\_\_\_

Authorized Signature (Manual): \_\_\_\_\_

Authorized Signature (Typed) and Title: \_\_\_\_\_

**Purpose**

The purpose of this Invitation to Bid (ITB) is to establish a 3 year contract for the Bureau of Laboratories (BOL), Central Laboratory, at 1217 N. Pearl Street, Jacksonville Florida for a Full Service Annual Preventive HVAC Maintenance agreement for two York International 400 ton Rotary Screw Chillers and one 400 ton Trane Centrifugal Chiller.

INVITATION TO BID  
CALENDAR OF EVENTS

DOH04-101  
Full Service Annual Preventive HVAC Maintenance

SCHEDULE	DUE DATE	METHOD
Bid Advertised	<b>December 9, 2004</b>	<b>Vendor Bid System</b> <a href="http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu">http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu</a>
Questions submitted in writing	<b>PRIOR to 5:00PM December 20, 2004</b>	Submit to: Florida Department of Health, Purchasing Attn: Janice Brown, Room 310 4052 Bald Cypress Way, Bin B07 Tallahassee, FL 32399-1749 Fax: (850) 412-1188 E-mail: <a href="mailto:Janice_Brown@doh.state.fl.us">Janice_Brown@doh.state.fl.us</a>
Mandatory Site Visit / Pre-Bid Conference	<b>10:00 am December 28, 2004, 2004</b>	Department of Health Bureau of Laboratories 1217 Pearl Street Hanson Building, Room 110 Jacksonville, Florida 32202
Answers to questions	<b>By 5:00PM December 29, 2004</b>	<b>Vendor Bid System</b> <a href="http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu">http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu</a>
<b>SEALED BIDS DUE AND OPENED</b>	<b>Must be received PRIOR to: 2:30PM January 7, 2005</b>	<b>Submit to:</b> Florida Department of Health, Purchasing Attn: Janice Brown, Room 310 4052 Bald Cypress Way, Bin B07 Tallahassee, FL 32399-1749
Anticipated Posting	<b>January 10, 2005</b>	<b>Vendor Bid System</b> <a href="http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu">http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu</a>

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

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

- (a) "Buyer" means the entity that has released the solicitation.
- (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.

**Note to Respondents: This ITB Special Conditions section 2.1 takes precedent over general instruction #3. Electronic submission of proposals are not required and will not be accepted.**

**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,
- 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.

**Note to Respondents: This ITB Special Conditions section 2.2 takes precedent over general instruction #5.**

**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.
- To the best of the knowledge of the person signing the response, the respondent 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. 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. 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.

**11. 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. 119.07(3)(m), 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).

**12. 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.

**13. 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.

**14. 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.

**15. 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.

**16. 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.

**17. 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.

**18. Public Records.** Florida law generously defines what constitutes a public record; see, for example, section 119.07 of the Florida Statutes. If a respondent believes that its response contains information that should not be a public record, the respondent shall clearly segregate and mark that information (for example, placing the material in a separate electronic file, and including the word "Confidential" in the filename) and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption.

**19. 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."

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

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

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

(b) "Customer" means the State agency or other entity that will order products directly from the Contractor under the Contract.

(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, or other authorized means).

**2. Purchase Orders.** A 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.

**Note to Respondents: This ITB Special Conditions section 3.1 takes precedent over general condition #5.**

**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. 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 Customer'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 Customer shall determine in its sole discretion whether a product is acceptable as an equivalent.

**8. 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.

**9. 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.

**10. 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.

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

**12. 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.

**13. 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 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.

**14. 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.

**15. 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 SHALL BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

**16. Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number, 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.

**17. 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 on a purchase order or other special contract condition.

**18. 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.

**19. 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://dis.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.

**20. 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.

**21. Limitation of Liability.** For all claims against the Contractor under any individual purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the 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 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.

**22. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract, 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. Suspension of work shall not entitle the Contractor to any additional compensation.

**23. 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.

**24. 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.

**25. 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.

**26. Scope 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.

**27. 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.

**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; provided, the Contractor assigns to the State any and all claims it has with respect to the Contract under the antitrust laws of the United States and the State. 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. 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 ten (10) 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.

**31. 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. 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.

**32. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the State 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.

**33. 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.

**34. 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.

**Note to Respondents: This ITB Special Conditions section 3.6 takes precedent over general condition #34.**

**35. 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.

**36. 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.

**37. 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.

**38. 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.

**39. 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>.

**40. 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>.

**41. 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.

**42. 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.

**43. 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.

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

**45. 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.

**46. 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.

**47. Special Conditions.** Pursuant to 60A-1.002(7), F.A.C., a Customer may attach additional contractual and technical terms and conditions. These "special conditions" shall take precedence over this form PUR 1000 unless the conflicting term in this form is statutorily required, in which case the term contained in the form shall take precedence.

## **Section 2.0 – Special Instructions to Respondents**

These “Special Instructions” shall take precedence over form PUR 1001 unless the conflicting term in PUR 1001 is statutorily required, in which case the term contained in the form PUR 1001 shall take precedence.

### **2.1 Instructions for Bid Submittal**

- Electronic submission of bids are not required and **will not** be accepted for the Invitation to Bid. ***This Special Instruction takes precedent over General Instruction #3.***
- Bids may be sent by U.S. Mail, Courier, or Hand Delivered.
- All bids must be submitted in a sealed envelope and shall be clearly marked on the outside with the bid number, date and time of bid opening for which bid is intended. The Florida Department of Health is not responsible for the opening of any envelope which is not properly marked.
- It is the bidder’s responsibility to assure their bid submittal is delivered at the proper place and time as stipulated in the Invitation to Bid.
- Late bids will not be accepted.
- Bidders are required to complete, sign, and return the “Title Page” with their bid submittal.
- The State of Florida’s performance and obligation to pay under this contract is contingent upon annual appropriation by the Legislature.
- Bidders shall submit all mandatory, technical, and pricing data in the formats specified in the Invitation to Bid.
- When applicable, please indicate **NO BID** and return.
- **BIDS TRANSMITTED BY FACSIMILE WILL NOT BE CONSIDERED.**

### **2.2 Bidder Inquiries**

***This Invitation to Bid Special Instructions takes precedent over General Instruction #5.***

Questions related to this ITB must be received **in writing** by the contact person listed below by the time indicated in the Calendar of Events. The questions may be sent US mail, courier, e-mail, fax, or hand-delivered. These questions will be answered at the mandatory pre-bid conference. The Department may answer any additional questions at the pre-bid conference or defer them to a later date identified in the Calendar of Events. **No telephone calls will be accepted.**

Florida Department of Health, Purchasing  
Attn: Janice Brown, Room 310  
4052 Bald Cypress Way, Bin B07  
Tallahassee, FL 32399-1749  
Fax: (850) 412-1188  
Email: [mailto:janice\\_brown@doh.state.fl.us](mailto:janice_brown@doh.state.fl.us)

### **2.3 Special Accommodations**

Any person requiring special accommodations at DOH Purchasing because of a disability should call DOH Purchasing at (850) 245-4199 at least five (5) work days prior to any pre-bid conference, bid opening, or meeting. If you are hearing or speech impaired, please contact Purchasing by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).



### **Section 3.0 Special Conditions**

These "Special Conditions" shall take precedence over form PUR 1000 unless the conflicting term in PUR 1000 is statutorily required, in which case the term contained in the form PUR 1000 shall take precedence.

#### **3.1 Additional Quantities**

##### ***This Invitation to Bid Special Condition takes precedent over General Conditions #5.***

The Department reserves the right to purchase additional quantities of the items requested in this ITB for twelve (12) months from date of award on an as needed basis up to the amount shown on the bid but not to exceed the threshold for Category Two at the prices bid in this invitation.

#### **3.2 Cost of Bid Preparation**

Neither the Department of Health nor the State is liable for any costs incurred by a bidder in responding to this Invitation to Bid.

#### **3.3 Warranty**

A warranty is required on all material and equipment against defective material, workmanship, and failure to perform in accordance with required performance criteria for a period of not less than one (1) year from the date of installation.

Replacement of all parts found defective within the warranty period shall be made without cost to the State of Florida, Department of Health.

The warranty shall apply to all installed material and equipment purchased under the provisions of this bid. Warranties submitted with bid response, either appearing separately or included in pre-printed literature, of less than one (1) year are not acceptable and provisions here in take precedence. This warranty shall not cover adjustment, repair or parts replacements required because of purchaser's negligence or misuse. Warranty period shall begin upon acceptance and installation of equipment.

#### **3.4 Vendor Registration**

Each vendor doing business with the State for the sale of commodities or contractual services as defined in Section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under subsection 60A-1.030(3), F.A.C. Also, an agency shall not enter into an agreement for the sale of commodities or contractual services as defined in Section 287.012 F.S. with any vendor not registered in the MyFloridaMarketplace system, unless exempted by rule. A vendor not currently registered in the MyFloridaMarketPlace system shall do so within 5 days after posting of intent to award. Information about the registration is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at <http://www.myflorida.com>). Those lacking internet access may request assistance from the MyFloridaMarketPlace Customer Service at 866-352-3776 or from State Purchasing, 4050 Esplanade Drive, Suite 300, Tallahassee, Florida 32399.

For vendors located outside of the United States, please contact Vendor Registration Customer Service at 866-352-3776 (8:00 AM - 5:30 PM Eastern Time) to register.

#### **3.5 Certification of a Drug Free Workplace**

In the event of a tie bid, preference shall be given to bidders submitting a certification with their bid certifying they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. This requirement effect all public entities of the State effective January 1, 1992. (See Attachment II, "Identical Tie Bids Form")

### **3.6 Renewal**

***This Invitation to Bid Special Condition takes precedent over General Conditions #27.***

This contract may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer. For each renewal period of this ITB after the original three-year contract, a negotiated annual price increase/decrease of up to five percent (5%) will be allowed by the Department. If the Department and Contractor are in agreement, the Contractor will be required to submit a letter to the Department stating the new price agreed upon. The renewal shall be in writing and subject to the same terms and conditions set forth in the original contract. The renewal shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. The renewal may not include any compensation for costs associated with the renewal.

### **3.7 Commercial General Liability Insurance**

***This Invitation to Bid Special Condition takes precedent over General Conditions #34.***

The contractor shall secure and maintain, at its sole expense and for the duration of the contract, term insurance policies to protect himself, any subcontractor(s), and the State of Florida. The contractor shall save and hold harmless and indemnify the purchaser against any and all liability, claims, judgments or costs of whatsoever kind of nature for injury to, or death of any person or persons and for loss or damage to any property resulting from the use, service operation, or performance of work under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of Contractor, his subcontractor, or any of the employees, agents, or representatives of the contractor or subcontractor.

- A. Worker's Compensation in accordance with applicable state laws and regulations and Employer's Liability Insurance with a limit of not less than \$100,000.
- B. Commercial General Liability Insurance covering all operations and services under the contract with limits of bodily injury and property damage coverage of not less than \$500,000 combined single limit issued on a per occurrence basis.
- C. Comprehensive Automobile Liability Insurance, including owner, non-owned and hired vehicle coverage of not less than \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage, if operations and services under the contract involve the use of automotive vehicles on the Purchaser's premises.
- D. Inclusion of the subcontractor's activities within the contractor's own policy, otherwise each subcontractor must maintain the same levels of insurance under a separate policy for the life of the subcontract.

**Certificates of insurance coverage described above shall be furnished by the awarded vendor within five (5) days after notice of award. Failure, by the awarded vendor to furnish the required certificates within the time designated, shall cause the Department to withdraw the award and proceed with the next lowest responsive vendor.**

No insurance will be acceptable unless written by a company licensed by the State of Florida Insurance Department to do business in Florida, where the work is to be performed at the time policy is issued.

### **3.8 Cost Discussions**

Prior to opening of bids, bidders are not to divulge bid prices to any employee or representative of the State.



### **3.9 Verbal Instructions Procedure**

No negotiations, decision, or actions shall be initiated or executed by the bidder as a result of any DISCUSSIONS WITH ANY State employee. Only those communications, which are in writing from the Department of Health's Purchasing Office, may be considered as a duly authorized expression on behalf of the State. Also, only communications from bidders in writing will be recognized by the State as duly, authorized expressions on behalf of the bidder.

### **3.10 Discussions**

No negotiations, decisions or actions shall be initiated or executed by the bidder as a result of any discussions with any state employee prior to opening of bids.

### **3.11 Mandatory Requirements:**

The State has established certain requirements with respect to bids to be submitted by bidders. The use of "shall," "must" or "will" (except to indicate simple futurity) in this Invitation to Bid indicates a requirement or condition from which a material deviation may not be waived by the State. A deviation is material if, in the state's sole discretion, the deficient response is not in substantial accord with the Invitation To Bid requirements, provides an advantage to one bidder over other bidders, has a potentially significant effect on the quantity or quality of items bid, or on the cost to the state. Material deviations cannot be waived. The words "should" or "may" in this Invitation to Bid indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a bid.

### **3.12 Addenda**

If the Department of Health finds it necessary to supplement, modify or interpret any portion of the bidding specifications or documents during the bidding period a written addendum will be posted on the MyFlorida.com Vendor Bid System. It is the responsibility of the vendor/contractor to be aware of any addenda that might have bearing on their bid.

### **3.13 Unauthorized Aliens**

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

### **3.14 Certificate of Authority**

All corporations seeking to do business with the State shall, at the time of submitting a proposal in response hereto, either be on file or apply for registration, with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes. A copy of the registration or application shall be furnished when submitting the proposal. Similarly, partnerships seeking to do business with the State shall, at the time of submitting such a proposal, have complied with the applicable provisions of Chapter 620, Florida Statutes. A statement shall be required indicating that the bidder is a corporation or other legal entity. If subcontractors are used, a statement is required indicating that all subcontractors are registered with the State in accordance with Chapter 607 or 620, Florida Statutes, providing their corporate charter numbers. Information and forms may be obtained at <http://www.sunbiz.org>.

### **3.15 Minority Participation**

In keeping with the One Florida Initiative, the Department of Health encourages minority business participation in all its solicitations. Bidders are encouraged to contact the Office of Supplier Diversity at 850/487-0915 or visit their website at <http://osd.dms.state.fl.us> for information on becoming a certified minority or for names of existing certified minorities who may be available for subcontracting or supplier opportunities.

### **3.16 Payment of Invoices**

Payment shall be made in accordance with Section 215.422, Florida Statutes, which states the contractors rights and State agency's responsibilities concerning interest penalties and time limits for payment of invoices. All invoices submitted by the successful bidder as a result to this Invitation to Bid shall be mailed to the Dept of Health's accounting office shown on the purchase order(s). All invoices must show the purchase order number and location the service/merchandise was delivered to so prompt payment can be made. Invoices shall be paid quarterly in the arrears

### **4.0 Specifications**

Detailed specifications for this solicitation are provided as **Attachment I** to this ITB.

#### **4.1 Non-Smoking Facility**

Smoking is prohibited 24 hours per day in all Department of Health institutions and buildings.

#### **4.2 Mandatory Site Visit and Pre-Bid Conference**

A **mandatory** site visit and pre-bid conference will be held at the Department of Health Bureau of Laboratories as indicated in the Calendar of Events. A tour of all facilities will be provided at this time. The pre-bid conference is the only forum available during this competitive bid process for answering questions and making clarifications. Attendance at the mandatory site visit/conference is a prerequisite for the Department's acceptance of bid response. **Only vendors that completed the attendance sheet for the mandatory site visit will be considered responsive.**

#### **4.3 References**

All bidders must provide three (3) references with comparable level of maintenance and repairs. All bidders must complete the attached Bidder's References Form and submit it with the bid response. Bidders must receive a favorable rating from the references provided when contacted by the Department. Non-favorable ratings from the references may result in the bid being deemed non-responsive.

#### **4.4 Bid Evaluation**

Bids that do not meet the requirements specified in this Invitation to Bid will be considered non-responsive. Responsive bids meeting the mandatory requirements will be evaluated. As the best interest of the State may require, the Department reserves the right to reject any and all bids or waive any minor irregularity or technicality in bids received. Bidders are cautioned to make no assumptions unless their bid has been evaluated as being responsive.

#### **4.5 Basis of Award**

A single award will be made to the responsive, responsible bidder offering the lowest grand total bid for the services in this Invitation to Bid.

#### **4.6 Term**

It is anticipated that the contract resulting from this Invitation to Bid will be effective from January 14, 2005 through January 13, 2008.

#### **4.7 Licenses, Permits and Taxes**

Vendors shall pay for all licenses, permits and taxes required to operate in the State of Florida. Also, the offeror shall comply with all federal, state and local codes, law ordinances, regulations and other requirements at no cost to the Department.

**ATTACHMENT I**  
**Full Service Annual Preventive HVAC Maintenance**

**SPECIFICATIONS**

The purpose of this Invitation to bid is to establish a 3 year contract for the Bureau of Laboratories (BOL), Central Laboratory, at 1217 N. Pearl Street, Jacksonville Fl. for a Full Service Annual Preventive HVAC Maintenance agreement for two York International 400 ton Rotary Screw Chillers and one 400 ton Trane Centrifugal Chiller.

**Equipment**

(2) Two York International 400 ton Rotary Screw Chillers

- **Chiller #1 York model # YSDCDBS53, serial # SAAM922847, year1992.**
- Chiller # 2 York model #YSDCDBS53, serial # SBDM9286351, year 1993.

(1)one 400 ton Trane Centrifugal Chiller

- **Chiller #3 Trane model CVHE040GA3H03UL serial #L01D08128, startup 4-15-2002.**

**General Requirements**

1. Provide yearly a minimum of five (5) operating inspections and one (1) comprehensive annual Inspection.
2. Provide qualified technicians, equipment and tools to perform all tasks.
3. Perform all preventive maintenance tasks in accordance with guidelines issued by manufacturers.
4. Inspections to be performed during normal working hours, 7:00 AM to 5:00 PM- Monday through Friday and coordinated with Bureau of Laboratories representative. Equipment shutdowns are at the discretion of the Bureau of Laboratories representative. All equipment shutdowns must be prearranged with the BOL representative.
5. Provide written reports of all inspections and repairs to the Bureau of Laboratories (BOL) representative within 7 days after each inspection. All critical or emergency repairs must be reported immediately after the inspection.
6. Provide Twenty four (24) hour, seven (7) days a week emergency service as required for adjustments, resetting controls, diagnosis and repair of trouble.
7. Provide all parts, refrigerants, oil, lubricants, sealant and other materials for inspections, preventive maintenance and repairs. All costs shall be included in the yearly maintenance agreement cost.
8. Provide for disposal of used oils and contaminated refrigerants in accordance with all federal, state and local laws and regulations. All disposal fees will be included in the yearly maintenance agreement cost.
9. Provide Eddy current test once every three years.

## **Inspection Requirements**

Operating Inspections

**Operating Inspections shall be performed five times a year as follows:**

**March**

**May**

**July**

**September**

**November**

1. Inspect Chiller and adjust safety controls.
2. Check operation of controls.
3. Check operation of motor, starter, lube and oil return systems.
4. Conduct preventive maintenance as recommended by equipment manufacturer.
5. Perform all repairs and adjustment as required for proper operation of equipment.
6. Record operating conditions, repairs and parts and provide report to the BOL representative.

### **Comprehensive Annual Inspection**

**Comprehensive Annual Inspection shall be performed in January.**

1. Change compressor oils and have it analyzed.
2. Test all safety and operating controls.
3. Clean and inspect condenser tubes.
4. Leak check chiller under operating refrigerant pressure using approved type leak detector.
5. Megger motor windings and record results.
6. Inspect and test the operation of motor controls and protective devices.
7. Perform annual preventive maintenance as recommended by the equipment manufacturer.
8. Provide report to the DOH representative within 7 days after the inspection.
9. Clean and paint equipment as necessary throughout the life of the contract at the contractor's expense.

**Contractor must submit a detailed Full Service Annual Preventive HVAC Maintenance Agreement Plan for two York International 400 ton Rotary Screw Chillers and one 400 ton Trane Centrifugal Chiller with 7 days of acceptance of award. The Plan must meet the above specifications and the approval of the Department of Health, Bureau of Laboratories.**

**TABLE A, PRICE PAGE  
DOH04-101**

A single award will be made to the responsive, responsible bidder offering the lowest grand total bid for the services in this Invitation to Bid.

<b>Description</b>	
<b>Full Service Annual Preventive HVAC Maintenance</b> PERIOD 1/14/05 – 1/13/06	\$ _____
<b>Full Service Annual Preventive HVAC Maintenance</b> PERIOD 1/14/06 – 1/13/07	\$ _____
<b>Full Service Annual Preventive HVAC Maintenance</b> PERIOD 1/14/07 – 1/13/08	\$ _____
	\$ _____ <b>3 Year Grand Total</b>

By affixing my signature on this bid, I hereby state that I have read all bid terms, conditions and specifications and agree to all terms, and conditions, provisions, and specifications. I certify that I will provide and deliver to the location specified in the bid.

Authorized Representative: \_\_\_\_\_  
(Signature)

Name And Title: \_\_\_\_\_  
(Print or Type)

Email Address: \_\_\_\_\_ FAX #: \_\_\_\_\_

Company: \_\_\_\_\_

## DRUG FREE WORKPLACE FORM FOR IDENTICAL TIE BIDS

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

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the action that will be taken against employees for violations of such prohibitions.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under a bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are underbid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or non contenders 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 days after such violation.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program is such is available in the employee's community by, any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

---

VENDOR'S SIGNATURE

**ATTACHMENT A**  
**BIDDER REFERENCES**

Bidder's Name: \_\_\_\_\_

Please provide three (3) references, large companies or state agencies, for which you have provided the types of services requested in this Invitation to Bid.

1.) Name of Company/Agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

2.) Name of Company/Agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

3.) Name of Company/Agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative



Johnson Controls Inc.  
Controls Group  
8245 Bayberry Road.  
Jacksonville, FL 32256-7432  
904-733-1411

February 18, 2009

Florida Department of Health – Bureau of Laboratories  
ATTN: Regina Taylor  
Hanson Bldg., 1217 Pearl Street  
Jacksonville, FL 32202


Dear Ms. Taylor:

Johnson Controls, Inc is pleased to renew your facility's Planned Service Agreement for the upcoming year, Bid#DOH04-101. The scope and coverage of this agreement will remain the same as it was the previous year. Due to labor and material cost increases, this year's price will be slightly higher at \$14,802.00. The contract will be billed quarterly in the amount of \$3,700.50.

This agreement will begin on February 1, 2009 and will expire on January 31, 2010. Should you have any questions, please contact either Sam Kilgore at 904-732-5442 or myself at (904)732-5441. The number to call for service is 1-866-252-1683.

Thank you for choosing Johnson Controls, Inc. for continued service. Your business is greatly appreciated.

Sincerely,

  
Emilie Donnelly  
Service Operations Agent  
Jacksonville/245  
(904) 732-5441





\*Failure to provide 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.

03/04/05 11:05 AM

03/04/05 11:05 AM

NOTE: Offers from the vendors listed herein are the only offers received timely as of the above opening date and time. All other offers submitted in response to this solicitation, if any, are hereby rejected as late.

BID TITLE: Full Service Annual Preventive HVAC Maintenance

OPEN BY: Jessica Brown

BID NUMBER: DOH04-101

TABULATED BY: Yousif Gray

OPENING DATE: January 7, 2005 @ 2:30 pm

VERIFIED BY:

1. POSTING BEGINS: 1/11/05 @ 12:50pm

ENDS: 1/14/05 @ 12:50pm

PAGE 1 OF 1 PAGES

2. EXTENDED:

ENDS:

3. EXTENDED:

ENDS:

3 Year Grand Total

PROPOSER NAME			
Honeywell International Inc.	\$ 128,805.00		
Johnson Controls, Inc.	\$ 45,793.00		
York International	\$ 47,568.00		
McQuay International	\$ 82,560.00		
SIEMENS Building Technologies	\$ 62,913.00		

Circle indicates intended award