

State of Florida  
Department of Financial Services

Invitation to Negotiate (ITN)  
Number: 1718-13 ITN TR  
Controlled Disbursement and Electronic Funds Transfer  
(EFT) Services

Procurement Officer:  
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## **Attachments**

| # | Name  | Intentionally Omitted | Attached for Reference | To Be Completed and Returned |
|---|---|-----------------------|------------------------|------------------------------|
| A | Standard Contract, including: Contract Signature Page; Attachment 1, Standard Terms and Conditions; Attachment 2, Statement of Work; Attachment 4, PUR 1000; Addendum A, Public Records Requirements; and Addendum B, Data Security Requirements. |                       | ✓                      |                              |
| B | Evaluator Score Sheet   |                       | ✓                      |                              |
| C | Mandatory Criteria Certification Form   |                       |                        | ✓                            |
| D | Price Response Form   |                       |                        | ✓                            |
| E | Business Reference Form   |                       |                        | ✓                            |
| F | Award Preferences for Identical Evaluation of Responses Form  |                       | ✓                      |                              |
| G | Non-Disclosure Agreement  |                       |                        | ✓                            |

## **SECTION 1. INTRODUCTION**

### **1.1 Purpose**

The Department of Financial Services (Department), an agency of the state of Florida (State), is issuing this Invitation to Negotiate (ITN) to establish a contract for controlled disbursement and Electronic Funds Transfer (EFT) services for its Division of Treasury (Treasury). The solicitation will be administered through the Vendor Bid System (VBS), the State internet-based vendor information system at [http://www.myflorida.com/apps/vbs/vbs\\_main\\_menu](http://www.myflorida.com/apps/vbs/vbs_main_menu). The submitted Response must comply with the terms and conditions stated in this ITN.

### **1.2 Solicitation Objective**

The Department intends to enter into a contract using Attachment A, Standard Contract, for controlled disbursement and EFT services, hereby incorporated by reference. Provision of these services will require the setup and maintenance of multiple bank accounts, with one (1) account used to pay Reemployment Assistance (RA) warrants and EFT clearings for the Department of Economic Opportunity (DEO) in accordance with section 443.191, Florida Statutes (F.S.), and the remaining account(s) used to pay all other warrants and EFTs issued by the Department's Division of Accounting and Auditing (A&A). The Department intends to make a single award; however, the Department reserves the right to award to one Respondent or multiple Respondents by region, as permitted by section 287.042(13), F.S., or to make no award, as determined to be in the best interest of the State. If more than one Contract is awarded, then the use of the terms "Contract," "Contractor," "Response," and "Respondent," include the plural when applicable.

### **1.3 Background**

Treasury verifies, audits, and authorizes the payment of warrants and other disbursements issued by A&A. On a daily basis, Treasury receives an Issue File from the Florida Accounting Information Resource (FLAIR), the Department's current accounting system. This Issue File specifies the issue date, warrant type, warrant number, duplicate status, amount, and State account code for issued warrants, EFT settlements, stop payment orders, and cancellations. The Issue File is used to update the Treasury Warrants Application, defined in the Standard Contract's Attachment 2, Statement of Work, which holds thirteen (13) months of warrants issued at any given time. The Treasury Warrants Application escheats stale-dated warrants greater than twelve (12) months old.

Daily file transmissions will be sent between FLAIR, the Contractor, and Treasury to authorize payments or disbursements and to reconcile the transactions.

### Current Process

As mentioned above, A&A issues disbursements for the State. One method of disbursement is EFT. A&A utilizes an Automated Clearing House (ACH) payment method to submit an EFT file to the financial institution for all EFT payments except those related to RA, for which DEO transmits a file. These EFT files contain payroll, retirement, and other vendor payments. The financial institution performs the ACH transmissions for both files on the State's behalf. The financial institution credits the payee's account and debits the designated State account for funding. The financial institution transmits a daily Notice of Changes and Returns to A&A for its EFT disbursements and a daily Notice of Changes and Returns to DEO for RA EFT disbursements.

Upon receiving the file, A&A determines if the returned items will be reissued as warrants or returned to the State through an ACH to a designated account. A&A disputes any payments returned in error. A daily file is downloaded from the financial institution's proprietary web-based system of activity from the previous Business Day.

The Department currently provides information to the financial institution via the internet using Secure Shell File Transfer Protocol (SSH SFTP). The Department obtains information from the financial institution either by logging on to the financial institution's web-based system or through data transmissions sent to the Department by the financial institution.

### Future Process

The State's existing disbursement system has been in operation for more than thirty-five (35) years. However, the State is in the process of embarking upon a project to move to a new statewide accounting system: the Florida Planning, Accounting, and Ledger Management (Florida PALM) system. The Florida PALM project is a multiyear, multiphase project to replace the State's accounting and cash management systems with a financial management enterprise resource planning (ERP) solution. If the State begins implementation of this system during the term of the Contract, as defined below, it will be the responsibility of the awarded Respondent to perform the tasks described in the Standard Contract's Attachment 2, Statement of Work, to ensure continuity of operations throughout the implementation process.

#### **1.4 Goals of the ITN**

1. To establish banking services related to controlled disbursement accounts for the State.
2. To ensure the best value for the State.

#### **1.5 Question Being Explored.**

Respondents are not to respond directly to this question. The Department is seeking a solution (Solution) to the question being explored in this section. The Department will use the information obtained through this ITN process to assist it in developing its Solution by exploring the following question:

Is a branch location necessary for the deposit of refunds and other items into the State disbursement accounts or can such deposits be done remotely through a deposit scanner?

#### **1.6 Term**

The initial term of the Contract, as defined in the Standard Contract's Attachment 2, Statement of Work, will be five (5) years. The service shall begin on February 19, 2019, or the date the Contract is signed, whichever is

later, and continue for five (5) years thereafter, unless otherwise terminated. The Contract may be renewed in whole or in part for up to five (5) years in accordance with section 287.057(13), F.S., and Section 3 of the Standard Contract's Attachment 2, Statement of Work. Renewal(s) will be made at the renewal pricing specified in the Contract.

## **1.7 Definitions**

The Form PUR 1001, General Instructions to Respondents (PUR 1001), found in Rule 60A-1.002, Florida Administrative Code (F.A.C.), is hereby incorporated by reference. In addition to the definitions in the PUR 1001 and the definitions in the Standard Contract's Attachment 2, Statement of Work, and Attachment 4, PUR 1000, the following definitions also apply to this ITN:

Best and Final Offer (BAFO) – the offer received from the Respondent at the conclusion of negotiations.

Business Days - Monday through Friday, inclusive, except for State government holidays.

Confidential Information - any documents, data, or records that are confidential and not subject to disclosure pursuant to Chapter 119, F.S., the Florida Constitution, or any other authority.

Respondent – an entity that submits a Response to this ITN.

Response – a formal response to this ITN.

Technical Information – State-specific data files, layouts, and designs.

## **1.8 Special Accommodations**

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

## **1.9 Procurement Officer**

Pursuant to section 287.057(23), F.S., and the PUR 1001, section 21, the Procurement Officer is the sole point of contact from the date of release of this ITN until 72-hours after the notice of intended award is posted, excluding Saturdays, Sundays, and State government holidays. Violation of this provision may be grounds for rejecting a Response.

The Procurement Officer is:

Amy Jones, Deputy Purchasing Director  
Department of Financial Services  
Office of Purchasing and Contractual Services  
200 E. Gaines Street, Larson Building  
Tallahassee, FL 32399-0317  
Email: DFSpurchasing@myfloridacfo.com

Refer ALL inquiries in writing to the Procurement Officer by email. Responses to timely questions posed to the Procurement Officer will be posted on the VBS, at [http://myflorida.com/apps/vbs/vbs\\_main\\_menu](http://myflorida.com/apps/vbs/vbs_main_menu) in accordance with Section 2.1.1., Solicitation Phase, below.

The Department will not talk to any Respondents or their agents regarding a pending solicitation. Please note that questions will NOT be answered via telephone.

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

## **SECTION 2. ITN PROCESS**

### **2.1 Overview of the ITN**

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

Phases will each be divided into two (2) parts. The first part is the Prequalification Review (referred to as “Stage 1”) and the second part is the Technical Review and Evaluation (referred to as “Stage 2”).

In the Solicitation Phases’ Stage 1, the Respondents will provide a Stage 1 Response, as specified in Section 3, Response Instructions, below. In the Evaluation Phase’s Stage 1, the Procurement Officer will review all Stage 1 Responses to determine responsiveness. The Procurement Officer will provide the Technical Information to Respondents the Department determines to be responsive for Stage 1. After receipt of the Technical Information, the Respondents must submit Stage 2 Responses. The Procurement Officer will then review all Stage 2 Responses to determine responsiveness. All Stage 2 Responses determined to be responsive will be submitted to the Evaluation Team. After evaluation, the Department may proceed to negotiate with one or more Respondent(s) deemed to be within the competitive range, or may reject all Responses.

**2.1.1 Solicitation Phase**

**2.1.1.1 Pre-Response Conference**

The Department will not hold a pre-Response conference.

**2.1.1.2 Question and Answer Period**

Respondents may submit written questions or requests for clarification regarding the terms, conditions, and requirements of the ITN and its attachments, and any processes described in those documents, to the Procurement Officer by email by the Stage 1 question deadline listed in Section 2.2, Timeline, below. The Department will address all inquiries submitted by the deadline listed in the Timeline below.

Respondents who have been deemed responsive by the Procurement Officer may submit written questions or requests for clarification regarding the additional information provided in Stage 2 of this ITN to the Procurement Officer by the Stage 2 question deadline listed in Section 2.2, Timeline, below. Respondents should note that any questions or requests for clarification will be sent to all responsive Respondents. Therefore, Respondents should not submit questions or requests for clarification that contain any of the Respondent’s Confidential Information. The Department will address all inquiries submitted by the deadline listed in the Timeline.

Questions do not constitute a formal protest of the specifications or of the solicitation. Responses to all Stage 1 written inquiries, and clarifications or addenda to the ITN, will be made through VBS. Responses to all Stage 2 written inquiries will be provided by email to each responsive Respondent.

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

| <b>Question #</b> | <b>Respondent</b> | <b>ITN Section</b> | <b>ITN Page #</b> | <b>Question</b> |
|-------------------|-------------------|--------------------|-------------------|-----------------|
|                   |                   |                    |                   |                 |

**2.1.1.3 Submission of Responses**

Once the Department posts the answers to the questions, Respondents may begin submitting Responses as indicated in Section 3.3, How to Submit a Response; however, Respondents are encouraged to submit their Responses no earlier than five (5) days prior to the submission deadline. Respondents must submit Stage 1, and, if applicable, Stage 2, Responses by the deadlines listed in Section 2.2, Timeline, below. Respondents may recommend enhanced value alternatives and optional services as indicated in Section 3.6, Volume Two: Technical Response, below. Respondents may provide additional information and options during negotiations. Respondents may not propose any alternative services for services considered outside of the scope of this ITN.



#### **2.1.1.4 Public Response Opening**

The Department will open Stage 1 and Stage 2 Responses in public meetings at the dates, times, and locations noted in Section 2.2, Timeline. The Procurement Officer will review the entire Response to ensure that all required pieces were timely submitted. Prices will not be read aloud at the Stage 2 Response opening.

#### **2.1.2 Evaluation Phase**

##### **2.1.2.1 Prequalification Review (Stage 1)**

During Stage 1, all Responses will be reviewed by the Procurement Officer to ensure that complete Stage 1 Responses have been submitted and to ensure that the Responses meet the minimum mandatory criteria listed in Attachment C, Mandatory Criteria Certification Form (Prequalification Review). The Procurement Officer will send qualified Respondents the Technical Information necessary to enable the Respondents to complete Stage 2 Responses.

##### **2.1.2.2 Technical Review and Evaluation (Stage 2)**

During Stage 2, all Responses will be reviewed by the Procurement Officer to ensure that complete Responses have been submitted (Technical Review).

Complete Responses that meet the minimum mandatory criteria of Stage 1 and Stage 2 will be sent to the evaluation team for their qualitative review. In order to foster maximum competition, the Department will seek to minimize Respondent disqualifications resulting from non-responsiveness during the Prequalification and Technical Reviews. Therefore, the Department may, at its sole discretion, notify Respondents whose qualifying information or documentation does not meet the requirements of the ITN and allow the correction of errors and omissions prior to making a final determination of responsiveness. Timely cures will be accepted by the Department.

All Responses determined by the Procurement Officer to be responsive during both the Prequalification Review and the Technical Review will be evaluated by the evaluation team according to the evaluation criteria set forth in Attachment B, Evaluator Score Sheet, and set forth in this ITN. The Responses will be scored individually and the points for price will be added to the evaluation team scores by the Procurement Officer to establish a competitive range of Responses reasonably susceptible of award. The Department may then select one or more Respondents within the competitive range with which to commence negotiations (concurrently or sequentially), or may reject all Responses.

##### **2.1.3 Negotiation Phase**

The Department will establish a negotiation team to conduct the negotiations and make an award recommendation after determining which Respondent presents the best value based on the selection criteria developed in accordance with Section 4.6, Selection Criteria. The Department reserves the right to negotiate different terms and related price adjustments if the Department determines that such changes would provide the best value to the State. The Department will then post its Notice of Intent to Award on the VBS.

#### **2.2 Timeline**

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

| <b>Event</b>   | <b>Event Time Eastern Time (ET)</b> | <b>Event Date</b> |
|--|-------------------------------------|-------------------|
| ITN posted on the VBS.   | N/A                                 | 05/02/2018        |
| <b>STAGE 1 – Prequalification Review</b>   |                                     |                   |
| Deadline to submit questions electronically to Procurement Officer.                          | 3:00 PM                             | 05/14/2018        |
| <b>Anticipated</b> date to post answers to Respondents’ questions on VBS.                    | 5:00 PM                             | 05/21/2018        |
| Deadline to submit Stage 1 Responses and all required documents to the Department.           | 3:00 PM                             | 05/31/2018        |
| Public Response Opening.<br>200 E. Gaines Street, Tallahassee, FL, Larson Building, Room 116 | 3:15 PM                             | 05/31/2018        |
| <b>STAGE 2 – Technical Review and Evaluation</b>   |                                     |                   |
| <b>Anticipated</b> date to provide Technical Information to responsive Respondents.          | 5:00 PM                             | 06/08/2018        |
| Deadline to submit questions to the Procurement Officer.                                     | 3:00 PM                             | 06/22/2018        |
| <b>Anticipated</b> date to provide answers to Respondents’ questions by email.               | 5:00 PM                             | 07/13/2018        |
| Deadline to submit Stage 2 Responses and all required documents to the Department.           | 3:00 PM                             | 08/09/2018        |
| Public Response Opening.<br>200 E. Gaines Street, Tallahassee, FL, Larson Building, Room 116 | 3:15 PM                             | 08/09/2018        |
| <b>Anticipated</b> public meeting for negotiation team to discuss recommended award.         | TBD                                 | TBD               |

### **2.3 Addenda/Amendments to the ITN**

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

### **2.4 Contract Formation**

The Department may enter into a Contract with each Respondent awarded pursuant to Section 5, Award. The Contract will consist of the Contract Signature Page; Attachment 1, Standard Terms and Conditions; Attachment 2, Statement of Work; Attachment 4, PUR 1000; the attached Addenda; and relevant portions of the

BAFO and Price Response submitted by the awarded Respondent. See Attachment A, Standard Contract, and its attachments for more details on final contract formation.

In accordance with Section 3.6.5., Exceptions, the Respondent must notify the Department of any exceptions it has to the Standard Contract's attachments, other than Attachment 2, Statement of Work, in its initial response. Certain terms and conditions of the Standard Contract's Attachment 2, Statement of Work, may be negotiated during negotiation sessions. The Respondent must submit an updated Statement of Work that reflects the negotiated changes to the Statement of Work, or otherwise reduce the result of the negotiations to writing, and attach it to its BAFO. No additional documents submitted by a Respondent will be incorporated into the Contract unless specifically identified and accepted by the Department before Contract execution.

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

## **2.5 Disclosure of Response Contents**

All documentation submitted as a Respondent's Response to the ITN will become the exclusive property of the Department and will not be returned to the Respondent.

Responses received by the Department in response to this solicitation may be disclosed pursuant to a public records request, subject to any confidentiality claims and the timeframes identified in section 119.071(1)(b), F.S.

RESPONSES RECEIVED AFTER THE EXACT TIME SPECIFIED IN SECTION 2.2, TIMELINE (LATE RESPONSES), WILL NOT BE CONSIDERED.

## **2.6 Withdrawal and Modification of Responses**

The Respondent may modify its Response at any time prior to the submittal deadline by submitting a request to the Procurement Officer. A submitted Response may be withdrawn from consideration by the Department, if the Respondent submits a signed, written request for withdrawal to the Procurement Officer within seventy-two (72) hours after the deadline for Response submittal.

## **2.7 Clarification Process**

The Department may request clarification from the Respondent for the purpose of resolving ambiguities or questioning information presented in the Response. Clarifications may be requested throughout the solicitation process. The Respondent's answers to requested clarifications must be in writing and must address only the information requested. The Respondent's answers to requested clarifications must be submitted to the Department within the time specified by the Department in the requested clarification.

## **2.8 Response Qualification and Cure Process**

In the interest of maximizing competition, the Response qualification and cure process seeks to minimize, if not eliminate, Respondent disqualifications resulting from nonmaterial, curable deficiencies in the Response. During the Administrative Review portion of the evaluation, if the Department determines that a nonmaterial, curable deficiency in the Response will result in the disqualification of a Respondent, the Department may notify the Respondent of the deficiency and a timeframe within which to provide the information. This process is at the sole discretion of the Department; therefore, the Respondent is advised to ensure that its Response is compliant with the ITN at the time of submittal.

## **2.9 Information from Other Sources**

The Department reserves the right to seek information from outside sources regarding the Respondent and the Respondent's offerings, capabilities, references, and performance, if the Department determines that such information is pertinent to the ITN. The Department may consider such information throughout the solicitation process including, but not limited to, determining whether the award is ultimately in the best interest of the State. This may include, but is not limited to, the Department engaging consultants, subject matter experts, and others to ensure that the Department has a complete understanding of the information provided pursuant to the solicitation.

## **2.10 Diversity**

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

## **SECTION 3. RESPONSE INSTRUCTIONS**

### **3.1 Instructions to Respondents**

This section contains the General Instructions (PUR 1001) and Special Instructions to Respondents. The PUR 1001 can be accessed at

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

The following sections of the PUR 1001 are inapplicable:

#### **Section 3. Electronic Submission of Responses**

Responses shall be submitted in accordance with Section 3.4, How to Submit a Response, below.

#### **Section 5. Questions**

Questions shall be submitted in accordance with Section 2.1.1.2, Question and Answer Period, above.

The Special Instructions are in the remaining sections of this Section 3. In accordance with Rule 60A-1.002, F.A.C., in the event any conflict exists between the Special Instructions and General Instructions, the Special Instructions will prevail.

### **3.2 Who May Respond**

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

### **3.3 How to Submit a Response**

For its Stage 1 (Prequalification Review) Response, the Respondent must submit:

- One (1) original version of Volume One: Response Prequalification Documents.
  - The Respondent shall include the originals of any documents required to be signed as part of Volume One. The Respondent must label the cover and spine of the volume "Original – Volume One, Binder \_\_\_\_ of \_\_\_\_," and include the Respondent's name and the ITN number.
- Six (6) copies of Volume One: Response Prequalification Documents.

- The Respondent shall include an exact copy of the original Volume One. The Respondent must label the cover and spine of the volumes “Copy # \_\_\_\_\_, Volume One, Binder \_\_\_\_\_ of \_\_\_\_\_,” and include the Respondent’s name and the ITN number.
- One (1) scanned copy of Volume One on a CD-ROM or flash drive, with large files scanned as separate .pdf files.
- One (1) REDACTED scanned copy of Volume One, to include one (1) Confidential Information index, if applicable (see Section 3.8), on a CD-ROM or flash drive. The Respondent must ensure that all metadata has been removed from the files in the redacted copy.

If the Department requests a Stage 2 (Technical Review and Evaluation) Response from the Respondent, then the Respondent must submit the following documents for its Stage 2 Response:

- One (1) original version of both Volume Two and Volume Three.
  - The Respondent shall include the originals of any documents required to be signed as part of Volumes Two and Three. The Respondent must label the cover and spine of the volumes “Original – Volume \_\_\_\_\_, Binder \_\_\_\_\_ of \_\_\_\_\_,” and include the Respondent’s name and the ITN number.
- Six (6) copies of both Volume Two: Technical Response and Volume Three: Price Response.
  - The Respondent shall include an exact copy of the original Volume Two and Volume 3. The Respondent must label the cover and spine of the volumes “Copy # \_\_\_\_\_, Volume \_\_\_\_\_, Binder \_\_\_\_\_ of \_\_\_\_\_,” and include the Respondent’s name and the ITN number.
- One (1) scanned copy of the entire Response and price sheet on a CD-ROM or flash drive, with large files scanned as separate .pdf files.
- One (1) REDACTED scanned copy of the Response, to include one (1) Confidential Information index, if applicable (see Section 3.8, Confidential Response Materials and Redacted Submissions), on a CD-ROM or flash drive. The Respondent must ensure that all metadata has been removed from the files in the redacted copy.
- One (1) electronic copy of the entire Response and price sheet on a CD-ROM or flash drive with all Confidential Information highlighted (not redacted).

Note: The Respondent may use an alternate method of binding other than a binder and include separate tabs or other methods of separation for Volumes One and Two of the Response in lieu of separate binders, but Volume Three must still be delivered as a separately sealed and labeled document.

Respondents must deliver the Responses in sealed packages to the Office of Purchasing and Contractual Services at 200 East Gaines Street, Larson Building, Room 146, Tallahassee, Florida 32399-0347, by the deadline(s) listed in Section 2.2, Timeline. The Respondent shall clearly label the outside of the sealed packages with the ITN number and the Respondent’s name.

### **3.4 Contents of Response**

It is a mandatory requirement of this ITN that the Response contain all of the documents listed below. The Respondent must organize the contents of its Response submittal as follows:

#### **Stage 1 (Prequalification Review) Response:**

##### Volume One: Response Prequalification Documents.

The Respondent shall provide the following information in its Stage 1 (Prequalification Review) Response:

- Cover Letter
- Attachment C, Mandatory Criteria Certification Form, and any associated required documentation
- Financial Documentation

- Attachment E, Completed Business Reference Forms
- Description of Contract Disputes
- Attachment G, Non-Disclosure Agreement

## **Stage 2 (Technical Review and Evaluation) Response:**

Respondents who have been deemed qualified based on the documentation provided in the Stage 1 (Prequalification Review) Responses will be sent the Technical Information necessary for completion of Volume Two: Technical Response and Volume Three: Price Response. The Respondents shall then provide the following information in the Stage 2 Responses:

- Volume Two: Technical Response.
  - Respondent's Proposed Solution
  - Narrative on Experience and Ability (no more than 3 pages)
  - Optional Services
  - Value-Added Services
  - Exceptions
- Volume Three: Price Response
  - Attachment D, Price Response Form (Separately Sealed)

### **3.5 Volume One: Response Qualification Documents (STAGE 1 RESPONSE)**

#### **3.5.1 Cover Letter**

The Respondent must provide a cover letter on the Respondent's letterhead with the following information:

- Name and principal place of business of the Respondent
- Primary location at which the work will be performed

#### **3.5.2 Mandatory Criteria Certification and Required Documentation**

The Respondent must complete and submit Attachment C, Mandatory Criteria Certification Form. The Respondent must complete the form by checking "Yes" or "No" next to each question, unless otherwise indicated in the question, and signing the bottom. Completion of this form is mandatory. The Respondent must meet the qualifications identified in the Mandatory Criteria Certification Form to be considered for award. If any criteria listed on Attachment C indicates that supporting documentation is necessary, the Respondent must provide the supporting documentation with Attachment C. The Department will not evaluate a Response from a Respondent who answers "No" to any of the criteria. Failure to meet mandatory requirements will cause rejection of the Response or termination of the Contract.

#### **3.5.3 Financial Documentation**

The Respondent must provide financial statements that include independent evidence that the Respondent possesses the sufficient financial resources and stability necessary to provide the services sought. This evidence must be in the form of audited financial statements that include balance sheets and income statements for the last two (2) fiscal years. Financial statements will not become part of the Contract.

#### **3.5.4 Business References**

The Respondent must have at least three (3) clients complete Attachment E, Business References Form, and must include the completed forms in its Response. The references must be from at least three (3) clients to whom the Respondent:

- 1) currently provides services (similar in size and scope to those solicited herein); or
- 2) has provided services (similar in size and scope to those solicited herein) within the three (3) years preceding the date this ITN was posted.

### **3.5.5 Description of Contract Disputes**

The Respondent shall identify all contract disputes the Respondent (including its affiliates, subcontractors, agents, etc.) has had with any customer(s) within the last five (5) years related to contracts under which the Respondent provided(s) commodities and/or services in the United States on an organizational or enterprise level that may impact or has impacted the Respondent's ability to provide the services described in this solicitation. The term "contract disputes" means any circumstance involving the performance or non-performance of a contractual obligation that resulted in any of the following actions:

- Identification by the contract customer that the Respondent was in default or breach of a duty or performance under the contract;
- An issuance of a notice of default or breach;
- The institution of any judicial or quasi-judicial action against the Respondent as a result of the alleged default or defect in performance; or
- The assessment of any fines or direct, consequential or liquidated damages under such contracts.

For each dispute, the Respondent shall list the following information:

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

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

### **3.5.6 Non-Disclosure Agreement**

The Respondent must complete and submit Attachment G, Non-Disclosure Agreement.

## **3.6 Volume Two: Technical Response (SUBMITTED IN STAGE 2)**

The Respondent must provide the following information to be evaluated according to the methodology listed in Section 4, Selection Methodology:

### **3.6.1 Respondent's Proposed Solution**

- The Respondent must fully describe its plan for carrying out the services requested in the Standard Contract's Attachment 2, Statement of Work. In the description, the Respondent must, at a minimum:
  - Describe the timeline and activities associated with the implementation;
  - Describe the key advantages of the Respondent compared to competitors;
  - Describe the safeguards in place to secure data; and
  - Describe any security breaches and/or other security incidents related to client data or unauthorized physical access to the data center within the last five (5) years, and explain how they were handled.
- The Respondent must submit an implementation plan and schedule.
  - At a minimum, the implementation plan must include:
    - The approved scope and scope exclusions;
    - A risk management plan;
    - A communication plan;
    - A plan and approach for quality assurance including testing system development and file transfers; and
    - A list of the team members, including their roles and responsibilities.
  - At a minimum, the implementation schedule must include:
    - Required work broken into tasks;
    - Firm task durations (estimated durations should be limited);
    - Time Frames to complete each task;

- Task predecessors and successors;
- Assigned resources;
- Baseline start and finish dates; and
- Exceptions to business hours for team members (i.e., weekends, holidays).
- The Respondent must submit solution architecture and design documentation, including at a minimum:
  - Application overview of the system, including a general introduction with identification of the purpose, goals, definitions, acronyms, and abbreviations;
  - Proposed architecture, including subsystem identification and software/hardware mapping;
  - Diagrams of interface files and identification of data elements being exchanged; and
  - Description of security requirements that define access control and security and data management.

### **3.6.2 Narrative on Experience and Ability (no more than three (3) pages)**

The Respondent shall furnish a narrative on its prior relevant experience and ability to provide this or similar services. The narrative may not be more than three (3) pages long. This narrative must include:

- Organizational chart
- Identification of key personnel
  - The Respondent must provide the names and title of the personnel primarily responsible for the daily banking activities associated with the Contract and include a description of the functions and responsibilities of each key person relative to the task to be performed.
- Examples of similar services

### **3.6.3 Optional Services**

If the Respondent is interested in providing the optional services listed in this Section 3.6.3 as a part of the Contract (if awarded to the Respondent), it must notate this in its Response and provide any exceptions to the terms of the services included below. Information provided in this section will not be scored by the Evaluation Team.

- Warrant Printing
  - The following terms constitute the Department's needs if Warrant printing services are to be performed:
    - The Contractor shall print and distribute State Warrants.
    - The Department must approve the Warrant template, and any subsequent modifications, used by the Contractor prior to its implementation. The Department reserves the right to require the Contractor to make changes to the Warrant template at any time for no additional cost. The Contractor will be given a reasonable amount of time to make such changes.
    - The start date for the Warrant printing services will be specified in a project plan (developed during negotiations).
    - Every Business Day, the Department will submit a Warrant payment file to the Contractor. The Contractor shall provide a method through which the Department can provide a list of Warrants to be intercepted and forwarded to the Department on a case-by-case basis within a specified time frame agreed to by the parties.
    - The Contractor shall confirm receipt of the Warrant payment file.
    - Within twenty-four (24) hours of receipt of a Warrant payment file, the Contractor shall print the Warrant and either: 1) mail the Warrant to the payee at the address listed on the Warrant; or 2) distribute the Warrant to the Department or other State agency, as directed.
    - The Contractor, upon completion of each day's Warrant printing, shall provide the Department an electronic file of the work performed and disposition of payments produced.



- The Department will reimburse the Contractor for the actual postage costs and supplies as listed on Attachment D, Price Response Form.
- Validating Payee Account Information for ACH Transactions
  - The following terms constitute the Department’s needs if services to validate payee account information for ACH transactions are to be performed:
    - The Contractor will validate that the authorization request for the ACH transaction was made by a signer of the payee account.
    - The Contractor will validate that the payee bank information on the authorization request is correct. This includes the account type, account status, account number, and routing transit number.
    - The Contractor will ensure that the name on the account receiving the funds is the same as the payee’s name.
    - The Contractor will validate that the taxpayer identification number on the authorization request is the same as the taxpayer identification number on the payee bank account.

### **3.6.4 Value-Added Services**

The Respondent may offer services other than those services specifically outlined in this solicitation that it believes offer additional benefits (Value-Added Services). Although the Department has listed mandatory requirements and provided a Statement of Work, those are not intended to limit the Respondent’s innovations or creativity in preparing a Response to accomplish these goals. Innovative ideas, new concepts, and partnership arrangements other than those presented in this ITN will be considered. For example, these might include unique business features, special services, offer costs or shared savings, discounts, or terms and conditions specific to each Respondent. If the Respondent is awarded the Contract and Value-Added Services are included in the Contract, then for any Value-Added Service for which no start date is established, the Department will provide the Contractor one hundred and eighty (180) days’ notice if such service listed in the Contract is selected for implementation. Information provided in this section will not be scored by the Evaluation Team.

### **3.6.5 Exceptions**

The Respondent shall fully describe any exceptions it has to the terms in the attachments that comprise Attachment A, Standard Contract.

### **3.7 Volume Three: Price Response (Separately Sealed AND SUBMITTED IN STAGE 2)**

The Respondent shall complete and return Attachment D, Price Response Form. The Price Response must be based on the assumption that the Standard Contract’s Attachment 1, Standard Terms and Conditions, will apply in its entirety.

### **3.8 Confidential Response Materials and Redacted Submissions**

In addition to the public records requirements of the PUR 1001, Section 19, if the Respondent considers any portion of its Response to be Confidential Information or exempt under Chapter 119, F.S., or other authority (Public Records Law), then the Respondent must simultaneously provide the Department with an unredacted version of the materials and a separate redacted electronic copy of the materials the Respondent claims as Confidential Information or exempt and briefly describe in writing the grounds for claiming exemption from the Public Records Law and state the specific statutory citation for such exemption.

The Respondent must mark the unredacted version of the document as “Unredacted Version – Contains Confidential Information” and place such information in an encrypted electronic form or a sealed separate envelope.

#### **3.8.1 Redacted Submissions**

If submitting a redacted version of its Response, the Respondent must mark the redacted electronic copy with the Respondent’s name, Department’s ITN name and number, and the words “Redacted Copy.” The Redacted Copy should only redact those portions of material for which a Respondent can legally support a claim that the

information is Confidential Information or exempt from Public Records Law. An entire Response should not be redacted. An entire page or paragraph which contains Confidential Information or exempt material should not be redacted unless the entire page or paragraph is wholly Confidential Information or exempt from Public Records Law. In the Redacted Copy, the Respondent shall redact and maintain in confidence any materials the Department provides or seeks regarding security of a proposed technology system or information subject to sections 119.011(14), 119.071(1)(f), and 119.071(3), F.S.

In addition, the Respondent should submit a separate index listing the Confidential Information or exempt portions of its Response. The index should briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption.

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

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

### **3.9 Additional Information**

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

## **SECTION 4. SELECTION METHODOLOGY**

### **4.1 Administrative Review and Mandatory Criteria**

In Stage 1, Prequalification Review, of the Evaluation Phase, the Procurement Officer will complete the Administrative Review of the Stage 1 Responses and, more specifically, Attachment C, Mandatory Criteria Certification Form, and make a determination of responsiveness. The Procurement Officer will also ensure that all documents that were labeled as "Mandatory" for the Stage 1 Response in this ITN have been submitted by the Respondent. Those Respondents deemed to be responsive will then be provided with the Technical Information necessary to submit a Stage 2 Response.

In Stage 2, Technical Review and Evaluation, of the Evaluation Phase, the Procurement Officer will complete the Administrative Review of the Stage 2 Responses to make a determination of responsiveness. The Procurement Officer will ensure that all documents that were labeled as "Mandatory" for the Stage 2 Response in this ITN have been submitted by the Respondent. Both Volume One and Volume Two of the Responses of those Respondents determined to be responsive in the Administrative Reviews of both the Stage 1 and Stage 2 Responses will then be sent to the evaluation team for evaluation.

### **4.2 Evaluation Team**

The Department's evaluation team will consist of at least three (3) persons who collectively have experience and knowledge in the program area and service requirements for the commodities and/or contractual services sought.

### **4.3 Evaluation Criteria**

Each Response will be evaluated as set forth in the remaining sections of this Section 4.3.

#### **4.3.1 Response Qualification**

The evaluation team member will review and evaluate portions of Volume One: Response Qualifications Documents, if the Evaluator Score Sheet requires the evaluation team to assign a point value to portions of Volume One.

#### **4.3.2 Technical Response**

Each evaluation team member will independently evaluate each Response against the evaluation criteria set forth in Attachment B, Evaluator Score Sheet.

#### **4.3.3 Price Response**

The Procurement Officer will evaluate the Attachment D, Price Response. Price Responses for the initial contract term will be awarded a maximum of 80 points. Price Responses for the renewal period will be awarded a maximum of 60 points. The scores for the Price Response will be determined based on the following formula:

**Initial term:** (Lowest Respondent's Price/Respondent's Price) x (Maximum Number of Points available)  
= Points Awarded for Price Response

**Renewal term:** (Lowest Respondent's Price/Respondent's Price) x (Maximum Number of Points available) = Points Awarded for Price Response

#### **4.4 Negotiation Team**

The Department's negotiation team will consist of at least three (3) persons who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and services requirements for which commodities and/or contractual services are sought.

#### **4.5 Negotiations**

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

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

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

This procurement will not result in an exclusive license to provide the services or products described in this ITN or the resulting Contract. The Department may, in compliance with applicable law, contract with other Respondents to provide the same or similar services.

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

Respondents may be provided an opportunity to recommend enhanced value alternatives and provide information and options during negotiations. The Department reserves the right to negotiate different terms and related price adjustments if the Department determines that such changes would provide the best value to the State. The negotiation team may address each proposed alternative during negotiations but is under no

obligation to accept a proposed alternative. If the negotiation team determines that a proposed alternative is not acceptable and the Respondent fails to offer another alternative that is acceptable to the negotiation team, the Respondent may be eliminated from further consideration or the negotiation team may stop negotiations with that Respondent.

#### **4.5.1 Negotiation Location and Attendance**

The Department will schedule negotiation sessions and distribute instructions and/or agendas in advance of each negotiation session. The negotiation sessions will be conducted in Tallahassee, Florida. The Representatives for each Respondent (including a representative authorized to agree to Contract terms on behalf of the Respondent and key personnel relevant to the topic being discussed) must plan to be available in person, without interruptions, for the entirety of the Respondent's scheduled negotiation session(s) in Tallahassee, Florida. The Department reserves the right to require attendance at negotiation sessions by particular representatives of the Respondent.

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

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

#### **4.5.3 Other Department Rights During Negotiations**

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

- Conduct reference checks and due diligence investigation of any Respondent, as the Department deems appropriate in its discretion.
- Schedule additional negotiation sessions with any or all responsive Respondents.
- Require any or all responsive Respondents to provide additional, revised, or final Responses addressing specified topics.
- Require any or all responsive Respondents to provide a written BAFO.
- Require any or all responsive Respondents to address services, prices, or conditions offered by any other Respondent.
- Arrive at an agreement with any responsive Respondent, finalize principal Contract terms with such Respondent, and terminate negotiations with any or all other Respondents, regardless of the status of or scheduled negotiations with such other Respondents.
- Decline to conduct further negotiations with any Respondent.
- Re-open negotiations with any Respondent.
- Take any additional administrative steps the Department deems necessary in determining the final award, including additional fact-finding, evaluation, or negotiation where consistent with the terms of this ITN.
- Review and rely on relevant information contained in the Responses.
- Include subject matter experts or other interested persons in negotiations with vendors, vendor presentations, and meetings at which negotiation strategies are discussed.

#### **4.6 Selection Criteria**

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

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

Responsiveness may be assessed at any point in the selection process.

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

## **SECTION 5. AWARD**

### **5.1 Basis of Award**

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

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

In submitting a Response, the Respondent agrees to be bound to the terms of the Standard Contract's Attachment 4, PUR 1000, and to negotiate the Standard Contract in good faith. Respondents must assume those terms will apply to the final contract, but the Department reserves the right to negotiate different terms and related cost adjustments if, during the Negotiation Phase, the Department determines that those different terms and related costs adjustments will provide the best value to the State. Respondents whose past performance, current status, or Response does not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of a contract may be rejected.

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

In the event that after negotiations are complete, there is a tie between two (2) or more of the negotiating Respondents, the Department will provide Attachment F, Award Preference for Identical Evaluation of Responses Form, to the Respondents with Responses that resulted in the tie. Based on those forms, the Department will give the award to a Respondent if it is a minority-owned (including woman-owned) or veteran-owned business. If more than one Respondent is entitled to this preference, the preference will be given to the Respondent that is the qualifying business of the smallest net worth, consistent with section 295.187(4)(b), F.S. If the award cannot be decided based on this preference, the Department will apply the criteria identified in sections 287.082, .087, and .092, F.S., in that order of precedence.

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

The negotiation team will develop a recommendation as to the award that will result in a Contract that is the best value for the State.

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

The Department's Chief Financial Officer, or designee, will make the final decision as to which Respondent should be awarded the Contract based on the Recommendation of Award.

### **5.5 Posting of Decision**

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

### **5.6 MyFloridaMarketplace (MFMP) Registration**

The awarded Respondent must have a current vendor registration in MFMP, at <https://vendor.myfloridamarketplace.com/>, prior to Contract execution.

The awarded Respondent will be required to pay the transaction fees as specified in PUR 1000, section 14, unless an exemption has been requested and approved prior to the award of the contract pursuant to Rule 60A-1.031, F.A.C.

### **5.7 Execution of Contract**

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

***\*\*Remainder of page left intentionally blank\*\****

**DEPARTMENT OF FINANCIAL SERVICES  
Standard Contract**

**Attachment A**

***\*\*Remainder of page left intentionally blank\*\****

**DEPARTMENT OF FINANCIAL SERVICES  
Contract Signature Page**

|   |                                      |                 |
|---|--------------------------------------|-----------------|
| Contract Title  | P.O. No. or Solicitation No., if any | Contract Number |
| Controlled Disbursements and Electronic Funds Transfer (EFT) Services | 1718-13 ITN TR                       |                 |

1. This Contract is entered into between the Department of Financial Services and the Contractor named below:

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

|                       |                     |                      |
|-----------------------|---------------------|----------------------|
| 2. Contract to Begin: | Date of Completion: | Renewals:            |
| February 19, 2019     | February 18, 2024   | Up to five (5) years |

|                              |                      |
|------------------------------|----------------------|
| 3. Performance Bond, if any: | Other Bonds, if any: |
|                              |                      |

|                                   |                            |   |
|-----------------------------------|----------------------------|---|
| 4. Total Value for Contract Term: | Total Value of Renewal(s): | Total Value of Contract Term Plus Renewal(s): |
|                                   |                            |   |

| 5. Department's Contract Manager |  | Contractor's Contract Manager |  |
|----------------------------------|--|-------------------------------|--|
| Name:                            |  | Name:                         |  |
| Address:                         |  | Address:                      |  |
| Phone:                           |  | Phone:                        |  |

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

- |  |
|--|
| Attachment 1: Standard Terms and Conditions Applicable to Competitively Procured Contracts |
| Attachment 2: Statement of Work  |
| Attachment 3: Completed Price Response Form  |
| Attachment 4: PUR 1000   |

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

- |   |
|---|
| Addendum A: Public Records Requirements                             |
| Addendum B: Data Security Requirements                              |
| Addendum C: Selected Portions of the Contractor's Response (if any) |

**IN WITNESS WHEREOF, this Contract is being executed by the parties and is effective on the date in the Contract Begin Date above or the last date signed below, whichever is later.**

8.

**CONTRACTOR**

Contractor's Name (*if other than individual, state whether corporation, partnership, etc.*)

|  |             |
|--|-------------|
| By ( <i>Authorized Signature</i> )       | Date Signed |
| Printed Name and Title of Person Signing |             |

9.

**DEPARTMENT**

Department of Financial Services

|  |             |
|--|-------------|
| By ( <i>Authorized Signature</i> )       | Date Signed |
| Printed Name and Title of Person Signing |             |



**DEPARTMENT OF FINANCIAL SERVICES**  
**Standard Terms and Conditions**  
**Applicable to Competitively Procured Contracts**

**ATTACHMENT 1**

**1. Entire Contract.**

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

**2. Contract Administration.**

a. Order of Precedence. If there are conflicting provisions the documents that make up the Contract, the order of precedence for the documents is as follows:

- i) Attachment 2, Statement of Work
- ii) Contract Signature Page
- iii) Attachments other than Attachments 1, 2, 3, and 4, if any, in the numerical order designated in the Contract Signature Page
- iv) Attachment 1, Standard Terms and Conditions Applicable to Competitively Procured Contracts
- v) Attachment 4, Form PUR 1000, General Contract Conditions
- vi) Attachment 3, Price Response
- vii) The Addenda in the alphabetical order designated in the Contract Signature Page

Notwithstanding the foregoing, if there is any discrepancy between Attachment 2, Statement of Work, and any incorporated portions of the Contract that were provided by the Contractor, the terms most favorable to the Department shall prevail.

- b. All written and verbal approvals referenced in this Contract must be obtained from the parties' Contract Managers, or designees, referenced in the Contract Signature Page.
- c. In the event that different Contract Managers are designated by either party after execution of this Contract, notice of the name and contact information of the new Contract Manager shall be submitted in writing to the other party and maintained in the respective parties' Contract records.
- d. This Contract may be amended only by a written agreement between both parties.

**3. Contract Duration.**

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

**4. Deliverables.**

The Contractor agrees to render the services or other units of deliverables as set forth in the Attachment 2, Statement of Work. The services or other units of deliverables specified in the above paragraph shall be delivered in accordance with the schedule and at the pricing outlined in

the Statement of Work. Deliverables may be comprised of tasks or activities that must be completed prior to the Department making payment on that deliverable.

#### **5. Performance Measures.**

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

#### **6. Acceptance of Deliverables.**

- a. Acceptance Process. All deliverables must be received and accepted in writing by the Contract Manager before payment.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables as outlined in the Statement of Work as incomplete, inadequate, or unacceptable due in whole or in part to the Contractor's lack of satisfactory performance under the terms of this Contract. Failure to use the appropriate technical requirements or complete all tasks or activities as identified in the Statement of Work will result in automatic deliverable rejection and may not be invoiced or paid until correction of the deliverable. Failure to complete the required duties as outlined in the Statement of Work will result in the rejection of the invoice. The Department, at its option, may allow additional time within which the Contractor may remedy the objections noted by the Department and the Department may, after having given the Contractor a reasonable opportunity to complete or make acceptable said deliverables, declare this Contract to be in default. If the Contract Manager rejects the deliverables, the Contractor shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time, at the Contractor's expense. If the Contract Manager does not accept the deliverables within thirty (30) days, they will be deemed rejected.
- c. Status Reports. If status reports are required as part of the Contract, the Contractor shall timely submit status reports showing deliverables, tasks, or activities worked on, attesting to the level of services provided, hours spent on each deliverable/task/activity, and upcoming major deliverables, tasks, or activities.
- d. Completion Criteria and Date. The Contract will be considered complete once all of the deliverables under the Contract have been provided and accepted. The final date for completion of the Contract shall not exceed the Contract duration, including any executed renewals or extensions, or, where applicable, the expiration date of any purchase orders made from the Contract.

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

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

## **8. Dispute Resolution.**

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

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

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

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

## **9. Payment.**

- a. Payment Process. Subject to the terms and conditions established in the Statement of Work, the pricing per deliverable established by the Attachment E, Price Response, or Statement of Work, and the billing procedures established by the Department, the Department agrees to pay the Contractor for services rendered in accordance with section 215.422, F.S. To obtain the applicable interest rate, please refer to <http://www.myfloridacfo.com/Division/AA/Vendors/default.htm>.
- b. Vendor Rights. A Vendor Ombudsman has been established within the Department. The duties of this individual include acting as an advocate for Contractors who may be experiencing

problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516.

- c. Taxes. The Department is exempted from payment of State sales and use taxes and Federal Excise Tax. The Contractor, however, shall not be exempted from paying State sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Department its taxpayer identification number upon request.
- d. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by the Department pursuant to the Statement of Work, shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed.
- e. Interim Payments. Interim payments may be made by the Department at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the Department's Contract Manager.

#### **10. Insurance.**

- a. Required Coverage. At all times during the duration of the Contract, the Contractor, at its sole expense, and its subcontractors, if any, shall maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Contract. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers licensed and authorized to write policies in the State. Unless specifically exempted in the Statement of Work, the following are the minimum insurance requirements applicable to this Contract:
  - i. Commercial General Liability Insurance.

By execution of this Contract, unless the Contractor is a state agency or subdivision as defined by subsection 768.28(2), F.S., the Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. A self-insurance program established and operating under the laws of the State may provide such coverage. The Department, its employees, and officers shall be named as an additional insured on any general liability policies.
  - ii. Workers' Compensation and Employer's Liability Coverage.

The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S., and employer's liability insurance with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any Contract work.
  - iii. Other Insurance.

At all times during the duration of the Contract, the Contractor shall maintain any other insurance as required in the Statement of Work.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor providing such insurance
- c. Verification of Insurance. Upon execution of the Contract, the Contractor shall provide to the Department written verification of the existence and amount for each type of applicable

insurance coverage. Upon receipt of written request from the Department, the Contractor shall furnish to the Department proof of applicable insurance coverage by standard form certificates of insurance.

- d. Failure to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, the Contractor shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

#### **11. Termination.**

- a. Contractor Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination, and except as otherwise directed by the Department, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Contractor shall accept no further work or new services related to the affected deliverables, and shall, as soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate any orders and/or subcontracts related to the terminated deliverables and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Department to the extent required, which approval or ratification shall be final for the purpose of this section. The Contractor shall not perform any services after it receives the notice of termination or after Contract expiration, except as necessary to complete the transition or continued portion of the Contract, if any. The Contractor shall submit to the Department within ninety (90) calendar days of termination a request for payment of completed services. Requests submitted later than ninety (90) calendar days after termination will not be honored and will be returned unpaid. All services for which the Department has paid prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Department for any fees or expenses that the Department may incur in securing a substitute provider to assume completion of those services.
- b. Contractor Obligations after Termination. If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a provider other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor in accordance with Exit Transition requirements in Section 31, below, and the Statement of Work.
- c. Termination for Convenience. The Department may, in its sole discretion, terminate the Contract at any time by giving thirty (30) days' written notice to the Contractor.

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

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

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

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

- a. The commitment of any material breach of this Contract by the Contractor, including failure to timely deliver a material deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract;
- b. Failure to maintain adequate progress, thus endangering performance of the Contract;
- c. Failure to honor any term of the Contract,
- d. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;
- e. Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;
- f. Employment of an unauthorized alien in the performance of the work, in violation of section 274A of the Immigration and Nationality Act, 8 U.S.C. section 1324a;
- g. One or more of the following circumstances, uncorrected for more than thirty (30) calendar days unless within the specified thirty (30) day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract:
  - i) Entry of an order for relief under Title 11 of the United States Code;
  - ii) The making by the Contractor of a general assignment for the benefit of creditors;
  - iii) The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property;
  - iv) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
- h. The commitment of an intentional material misrepresentation or omission in any materials provided to the Department;
- i. Failure to comply with the E-Verify requirements of this Contract; and
- j. Failure to or maintain the insurance required by this Contract.

### **14. Indemnification.**

The following provision supplements section 19 of the PUR 1000:

No provision in this Contract shall be construed to: 1) require the Department to hold harmless or indemnify the Contractor; 2) require the Department to insure or assume liability for the Contractor's negligence; 3) waive the Department's sovereign immunity under the laws of the State; or 4) otherwise impose liability on the Department for which it would not otherwise be responsible. Any provision, implication, or suggestion to the contrary is null and void.

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

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

#### **16. Remedies.**

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

#### **17. Waiver.**

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

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

The Contractor shall retain records demonstrating its compliance with the terms of the Contract five (5) years after the expiration of the Contract and all pending matters, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. If the Contractor is required to comply with section 119.0701, F.S., then compliance with the retention of records in accordance with section 119.0701(2)(b)4., F.S., will fulfill the above stated requirement. If the Contractor's record retention requirements terminate prior to the requirements stated herein, the Contractor may meet the Department's record retention requirements for this Contract by transferring its records to the Department at that time, and by destroying duplicate records in accordance with section 501.171(8), F.S., and, if applicable, section 119.0701, F.S. The Contractor shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.

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

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

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

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

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

## **21. Nonexclusive Contract.**

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

## **22. Statutory Notices.**

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

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

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

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

- a. The Contractor and all its agents shall comply with all federal, state, and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.
- b. This Contract shall be governed by and construed in accordance with the laws of the State.
- c. If applicable, the Contractor shall ensure that, as to its products and services it develops for the Department, electronic and information technology accessibility requirements of the Rehabilitation Act Amendments, 29 U.S.C. section 794 are met. Section 508 of the Rehabilitation Act Amendments, 29 U.S.C. section 794, compliance information on the supplies and services in this Contract are available on a website indicated by the Contractor.



The Electronic and Information Technology standard can be found at: <http://www.section508.gov/>.

- d. **Scrutinized Companies.** This provision applies only when the goods or services to be provided are \$1 million or more. Section 287.135, F.S., requires the Contractor to certify that it is not: 1) on the Scrutinized Companies with Activities in Sudan List, 2) on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or 3) participating in a boycott of Israel. By entering into or renewing this Contract, the Contractor certifies that it is not on either of these lists and that it is not participating in a boycott of Israel. The Contract may be terminated if the Contractor submits a false certification regarding such matters or is placed on either list. In addition, a Contract entered into on or after October 1, 2016, may be terminated if the Contractor is on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. The State Board of Administration maintains the “Scrutinized List of Prohibited Companies” list at the following link: <http://www.sbafla.com/fsb/PerformanceReports.aspx> and the “Quarterly List of Scrutinized Companies that Boycott Israel” list at the following link: <http://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/GlobalGovernanceMandates.aspx>.

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

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

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

#### **25. Data.**

- a. **Data Centers.** All data centers used to process and store State Data under this Contract shall only be located in the United States.
- b. **Requirements of Section 501.171, F.S.** If the Department shares data that is covered by section 501.171, Florida Statutes, with the Contractor in the process of fulfilling this Contract, the Contractor is responsible for fulfilling the requirements of section 501.171, Florida Statutes, in the event that the Contractor is responsible for a breach of this data.

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

Any dispute concerning performance of the Contract shall be processed according to the Statement of Work. Jurisdiction for any damages arising under the terms of the Contract will be in the courts

of the State, and venue will be in the Second Judicial Circuit in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees incurred in connection with disputes arising under the terms of this Contract.

**27. Independent Contractor.**

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

**28. Subcontracting.**

- a. Unless otherwise specified in the Statement of Work, all services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Department.
- b. The Department may, for cause, require the replacement of any Contractor employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to the Department's secure information or any facility by any Contractor employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract.
- e. The Department will not deny the Contractor's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of the Department's denial is safety or security considerations.

**29. Guarantee of Parent Corporation.**

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

**30. Survival.**

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

**31. Exit Transition Services.**

The Contractor has the affirmative obligation to provide to the Department, or its designee, all reasonable services necessary for the transfer of knowledge regarding the services and deliverables provided under the Contract (Exit Transition Services) to facilitate the orderly transfer of such services to the Department or its designee. If Exit Transition Services are necessary, such services may continue for up to six (6) months after termination, expiration, or cancellation of the Contract, at no cost to the Department. Further details regarding the requirements of the Exit Transition Services are specified in the Statement of Work.

**32. Third Parties.**

The Department shall not be deemed to assume any liability for the acts, omissions to act, or negligence of the Contractor, its agents, servants, and employees, nor shall the Contractor disclaim its own negligence to the Department or any third party. This Contract does not and is not intended to confer any rights or remedies upon any person other than the parties. If the Department consents to a subcontract, the Contractor will specifically disclose that this Contract does not create any

third party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Contract.

**33. Employment of State Employees.**

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

**34. Audits.**

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

**35. Travel Reimbursement.**

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

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

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

**37. Assignment.**

Unless otherwise authorized by law, 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 Department. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract, unless the Department expressly waives such secondary liability. The Department may assign the Contract with prior written notice to the Contractor of its intent to do so.

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**DEPARTMENT OF FINANCIAL SERVICES**  
**Statement of Work**

**ATTACHMENT 2**

**1. Scope of Work.**

The Contractor shall provide banking services related to the settlement of the State's Electronic Funds Transfers (EFT) and Warrant disbursements.

**2. Duration.**

2.1 Term. The term of the Contract shall begin on February 19, 2019, or the date the Contract is signed, whichever is later, and continue for five (5) years, unless otherwise terminated.

2.2 Renewals. The Contract may be renewed in whole or in part for up to five (5) years.

**3. Payment Provisions.**

This is a fixed rate contract. The Contractor will be paid in accordance with Attachment 3, Price Response.

**4. Definitions.**

4.1 "ACH Fraud Filter Stop" means a hold or no payment authorization on all ACH payments coming from specified bank accounts, unless the payment is specifically pre-authorized by an ACH file that the Contractor receives from the Department.

4.2 "Automated Clearing House" (ACH) means the computer based clearing and settlement facility for interchange of electronic debits and credits among financial institutions.

4.3 "Business Day" means a day that the Contractor is open to the public for carrying on substantially all business functions.

4.4 "Chargeback" means the reversal of a prior outbound transfer of funds from a consumer's bank account, line of credit, or credit card.

4.5 "Contract," unless indicated otherwise, refers to the contract that will be awarded under 1718-13 ITN TR.

4.6 "Contractor" means the Respondent awarded the Contract as a result of 1718-13 ITN TR.

4.7 "Criminal Justice Incentive Program" (CJIP) means the payment incentive program for law enforcement officers established by section 943.22, Florida Statutes (F.S.).

4.8 "Daily" means every Business Day.

- 4.9 “Department of Economic Opportunity” (DEO) means the State agency created in section 20.60, F.S.
- 4.10 “Department of Financial Services” (Department) means the State agency created in section 20.121, F.S. (or the Department’s Chief Financial Officer).
- 4.11 “Developed Material” means all software and other material that is produced under this Contract and associated with the Department's systems and processes, including software program code (in both object code and source code forms) and all related materials (including designs, data models, database models, object models, program listings, flow charts, application manuals, technical manuals, training manuals, user manuals, and operating procedures). The term "Developed Materials" does not include any pre-existing software, such as baseline software or upgrades or generic modifications thereto, but does include all modifications, enhancements, and interfaces to baseline software or other pre-existing materials that are created in the performance of the Contract.
- 4.12 “End of the Business Day” means 5:00 P.M. Eastern Time (ET).
- 4.13 “Final Acceptance” means final written acceptance provided by the Department to the Contractor related to a deliverable.
- 4.14 “Florida Accounting Information Resource” (FLAIR) means the accounting and cash management system used for all State agencies in the executive, judicial, and legislative branches of the State government.
- 4.15 “Florida Planning, Accounting, and Ledger Management” (Florida PALM) means the multiyear, multiphase project to replace the State’s accounting and cash management systems with an integrated, enterprise financial management solution.
- 4.16 “Go-Live” means the date that the Contractor starts performing Daily banking duties under this Contract.
- 4.17 “Issue File” means the file sent from FLAIR to the Contractor that contains new or updated Warrant information for Warrant issues, stop payments, and cancellations.
- 4.18 “Notice of Changes and Returns” is a notice created by a receiving depository financial institution to notify the originating depository financial institution that previously valid information contained in a posted entry has become outdated or that information contained in a pre-notification or live transaction is erroneous and should be changed.
- 4.19 “Project Management Body of Knowledge” (PMBOK) is a resource of globally recognized standards for project management.
- 4.20 “Qualified Public Depository” has the same meaning as the definition provided in section 280.02(26), F.S.

- 4.21 “Re-Employment Assistance” (RA) means the State’s temporary wage replacement benefit program.
- 4.22 “Stale Dated Warrant” means any Warrant that is not presented for payment within one (1) year after the last day of the month in which it was originally issued.
- 4.23 “State” means the state of Florida.
- 4.24 “State Active Duty Payroll” (SAD) means the payroll issued for the Florida National Guard when in training or activated by the Governor.
- 4.25 “Treasury” means the Department’s Division of Treasury.
- 4.26 “Treasury Warrants Application” means Treasury’s in-house application that updates with Warrant information from the Issue File from FLAIR and any paid Warrant information from the financial institution. It also transmits that paid Warrant information from the financial institution to FLAIR.
- 4.27 “Warrant” means a written order drawn by the Department, as defined in section 17.52, F.S.

## **5. Contractor Responsibilities.**

### **5.1 Standard Contractor Requirements:**

- A. The Contractor must be available to correspond with the Department from 8:00 A.M. – 5:00 P.M. ET on Business Days.
- B. The Contractor must be registered with the Department of State or otherwise compliant with State laws regarding business registration.
- C. The Contractor, and any of its subcontractors or partners that are holding State funds under this Contract, must be certified as a Qualified Public Depository and retain such certification throughout the term of the Contract.
- D. If a subcontractor is utilized to perform any of the services under the Contract, the Contractor must provide prior written notice, at least twelve (12) months in advance, to the Department in order to remove or replace the subcontractor.
- E. All employees, subcontractors, or agents performing work under the Contract must comply with all of the Department’s security and administrative requirements.
- F. The Contractor shall not divulge to third parties any Confidential Information, as defined in Addendum A, Public Records Requirements, obtained in the course of performing work under this Contract, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department.
- G. The Contractor must designate a Contract Manager and provide this person’s name and contact information to the Department’s Contract Manager. The Contractor’s Contract Manager must be available from 8:00 A.M. to 5:00 P.M. ET on Business Days. Any changes to the contact information of the Contractor’s Contract Manager must be provided to the Department within five (5) Business Days after the change.

H. The Contractor must provide access to its Statements on Standards for Attestation Engagements (SSAEs) 18 as they are issued by independent auditors. The SSAE 18 must cover the State's fiscal year (which runs from July 1<sup>st</sup> to June 30<sup>th</sup> each year). For any time during the State's fiscal year that is not covered in an SSAE 18, the Contractor will provide a bridge/gap letter or a follow-up on any outstanding items from its independent auditors, or a functionally equivalent independent Federal Financial Institutions Examination Council (FFIEC) standards certification related to security certification.

5.2 Account Requirements. The Contractor shall maintain the following separate demand accounts:

A. FLAIR Warrants and EFTs Account - This is a controlled disbursement account and will be assigned as a master account for funding purposes. The Department will fund this account through incoming wire transfers.

1. This account must have a subaccount for initiation of ACH payments that will settle to the FLAIR Warrants and EFTs Account.

B. RA Warrants and EFTs Account - This is a controlled disbursement account. The DEO will fund this account through deposits and incoming wire transfers originated by the United States Treasury.

C. Returns Account - This is the account in which the Notice of Changes and Returns from the FLAIR Warrants and EFT Account will settle.

D. Federal Tax Withholding Account - This account is used to satisfy the State's payroll tax liability with the Internal Revenue Service. The Department will fund this account and make disbursements using ACH transactions.

5.3 Implementation Requirements.

A. Implementation Requirement for Start-Up.

The Contractor shall, within twenty (20) calendar days of the effective date of the Contract, finalize the implementation plan and schedule included in Addendum C, Selected Portions of the Contractor's Response, and begin conversion to the Department's existing system(s).

B. Implementation Requirement for Florida PALM Project Documentation. Within thirty (30) calendar days of the Department providing specifications for implementation of Florida PALM, the Contractor must provide to the Department for approval an implementation plan, implementation schedule, and solution architecture and design documentation, as specified below. These elements must be in accordance with PMBOK standards.

1. At a minimum, the implementation plan shall document:

- i. the approved scope and scope exclusions;
- ii. a risk management plan;
- iii. a communication plan;
- iv. a plan and approach for quality assurance, including testing system development and file transfers; and
- v. a list of the team members, including their roles and responsibilities.

2. At a minimum, the implementation schedule shall include:
  - i. required work broken into tasks;
  - ii. firm task durations (estimated durations should be limited);
  - iii. task start and finish dates;
  - iv. task predecessors and successors;
  - v. assigned resources;
  - vi. baseline start and finish dates; and
  - vii. non-working time of project team members (i.e., weekends, holidays).
3. The Contractor shall provide solution architecture and design documentation that includes, at a minimum:
  - i. application overview of the system, including a general introduction with identification of the purpose, goals, definitions, acronyms, and abbreviations;
  - ii. proposed architecture, including subsystem identification and software/hardware mapping;
  - iii. diagrams of interfaces files and identification of data elements being exchanged; and
  - iv. security requirements to define access control and security and data management.

C. Implementation Requirement for Interface Files.

1. Daily, the DEO transmits electronic EFT files to the Contractor and the Department transmits electronic EFT and Positive Pay Issue Files from FLAIR to the Contractor. If necessary to achieve such transfers, the Contractor must develop a FLAIR interface, which the Department considers a Developed Material.
2. Daily, the Contractor shall send an electronic transmission of paid Warrants and ACH files to Treasury. If necessary to facilitate such transmission, the Contractor must develop a Treasury interface, which the Department considers a Developed Material.
3. Daily, the Contractor shall send an electronic transmission of ACH returns and Notice of Changes and Returns files to FLAIR and the DEO for the Treasury and DEO account activity, respectively. This requires development of multiple interface files, which the Department considers Developed Materials.

The Department anticipates transitioning from the FLAIR system to the Florida PALM system during the term of the Contract. When such transition occurs, it will be the Contractor's responsibility to develop any interface necessary to ensure that the electronic transmissions described in this section 5.3.C. continue without interruption. Such interfaces will be considered Developed Materials.

5.4 Pay State Warrants.

- A. Daily, the Department will provide the Contractor an electronic Warrant Issue File which the Contractor shall use to match Warrants presented to the account for settlement. Through an overnight batch process, the Contractor will electronically send a Daily file showing the paid items presented against the accounts.
- B. The Contractor shall pay Warrants made payable to individuals and/or vendors if the following conditions exist:



1. The Warrant is not altered;
2. The Warrant is not a Stale Dated Warrant; and
3. The presenter of the Warrant is the payee and will present a form of identification acceptable to the institution where the Warrant is presented.

C. The Contractor may not charge a fee to the payee for this service if the payee negotiates the Warrant at one of the Contractor's branch locations.

D. Positive Pay with Payee Match and Perfect Presentment Services.

1. The Contractor shall provide access to its online banking system to view Positive Pay exceptions and images of Positive Pay items.
2. Daily, the Contractor shall provide Treasury with a file of Warrants that match the Issue File and are ready for payment. Treasury will review errors that the Contractor was unable to correct and decide whether to pay or return a Warrant through the Contractor's Positive Pay system.
3. The Contractor will provide Treasury with all Positive Pay exceptions, without monetary limits.
4. The Contractor shall present same-day Positive Pay exception and image reporting by 4:00 P.M. ET, and the Department will have until 3:00 P.M. ET the following day to make pay or return decisions.
5. Daily, the Contractor shall provide an electronic file with a detailed listing of all Warrants paid that day and an electronic file of all items paid that day to Treasury, which Treasury shall use to update the Treasury Warrants Application.

E. Forgeries.

1. The Department will provide the Contractor with Form DFS-A1-409, Affidavit Attesting to Forgery, as required by Rule 69I-10.082, Florida Administrative Code, when dealing with alleged fraudulent transactions, and the Contractor shall investigate the fraudulent transactions according to its standard procedures. However, regardless of any Contractor standard procedure to the contrary, the Contractor shall initiate Warrant fraud investigations up to twelve (12) months after the account statement that includes the allegedly fraudulent transaction has been provided to the Department.
2. The Contractor shall provide the Department a monthly report listing all the forged and improperly endorsed items received from the Department and processed by the Contractor, which must include the status of each.
3. The Contractor is liable for outstanding items related to forgeries. However, such liability is capped at \$10,000 per calendar year.

#### 5.5 Warrant Images.

A. Online Banking Images: The Contractor shall provide electronic copies of Warrant images through the Contractor's online banking system. If any information on the front or back of the Warrant image provided is not legible, the Contractor shall provide the Department with a subsequent Warrant image that is legible, within a time period agreed upon by the Department and the Contractor, but not to exceed fifteen (15) Business Days.

- B. Digital Warrant Images: Weekly, the Contractor shall provide images of all paid Warrants to the Department in a format that can be stored by the Department. To facilitate search capability, the weekly file of paid Warrant images shall include, at a minimum: Warrant number, bank sequence number, paid date, and amount. The Contractor must provide a self-loading software for the Department's installation and use in viewing the images and searching index data to locate images. This software license will not expire except as specified in the Contract. The images must be useable by the Department after the license maintenance and support expires. The image quality must be at least equal to that of the Contractor's online banking system.

#### 5.6 Receiving Wires.

- A. Daily, the Contractor shall provide the Department with current-day wire, Warrant, and ACH presentment information through its online banking system. If the information is not available through that system, the Contractor will provide the information to the Department via email or phone.
- B. If the presentment information is not provided in the time specified and an alternative means of providing the information has not been utilized, the Contractor shall not return wire transfers for "insufficient funds."

#### 5.7 Wire Origination.

- A. Through its online banking system, the Contractor shall provide the Department the means to establish templates for repetitive and non-repetitive outgoing wire transfers.
- B. Online banking system wire transfers shall be executed by the Contractor in real time within thirty (30) minutes of receipt and immediate validation of wire instructions from the Department. If the wire transfer is delayed due to circumstances under the Contractor's control, the Contractor has until 11:59 P.M. ET that day to remedy the wire transfer. If the delay is due to circumstances outside the Contractor's control, the Contractor will provide all reasonable assistance to the Department to process the wire transfer.
- C. Any daylight overdraft fee specified in the Contract will not apply to the FLAIR Warrants and EFTs Account or RA Warrants and EFTs Account. Balances will be funded by the End of the Business Day in accordance with Section 5.11, Maintain the Accounts, below.

#### 5.8 ACH Items.

- A. ACH Debit Authorization: The Contractor shall provide the Department with the amount of ACH debits to be settled each Business Day. To ensure no unauthorized ACH debits are posted, the Department will utilize the ACH Fraud Filter Stop service.
- B. ACH File Origination: Daily, the Contractor shall process ACH origination files, including addenda thereto, received from the Department and the DEO. These files will be transmitted via the internet using Secure Shell Secure File Transfer Protocol (SSH SFTP). If ACH origination file processing is delayed due to circumstances under the Contractor's control, the

Contractor has until 5:00 P.M. ET that day to remedy the ACH origination file process. If the delay is due to circumstances outside the Contractor’s control, the Contractor will provide all reasonable assistance to the Department to process the ACH origination file.

1. The ACH origination file will be electronically transmitted to the Contractor by the Department. The table below lists the types of files and the number of days between the file transmission from the Department and the effective date. There may be instances where more than one payroll file has the same effective date as another payroll file, thus two (2) transmissions for payroll would be made on one (1) day.

| <u>ACH File Types</u>     | <u>Frequency</u> | <u>Number of Days Submitted before Effective Date</u> |
|---------------------------|------------------|---|
| <b>Expense</b>            | Daily            | 1 day   |
| <b>On Demand</b>          | Daily            | 1 day   |
| <b>Biweekly Payroll</b>   | Biweekly         | 3 days  |
| <b>Supplemental</b>       | When scheduled   | 3 days  |
| <b>CJIP</b>               | When scheduled   | 3 days  |
| <b>SAD</b>                | When scheduled   | 3 days  |
| <b>Monthly/Retirement</b> | When scheduled   | 3 days  |
| <b>Collections</b>        | When scheduled   | 1 day   |
| <b>RA (DEO)</b>           | Daily            | 2 days  |
| <b>Monthly Payroll</b>    | Monthly          | 3 days  |

2. The Department will transmit ACH origination files (other than those for RA payments) prior to 11:00 A.M. ET or, in the case of delay, as soon as possible thereafter. The Department will contact the Contractor as soon as the Department is aware there will be a delay in the transmission of the files, and the Contractor shall work with the Department to ensure files will be processed by the End of the Business Day.
3. The transmission of ACH origination files for RA payments will occur prior to 2:00 P.M. ET. Should any delays occur, the transmission will be sent as soon as possible. The Department will contact the Contractor as soon as the Department is aware there will be a delay in the transmission of the files. The Contractor shall work with the Department to ensure files will be processed by the End of the Business Day.

C. ACH File Processing.

1. The Contractor shall maintain, and make available through the Contractor’s online banking system, electronic access to a detailed list of all transactions sent to the ACH and items to be posted to accounts maintained by the Contractor (i.e. “on us” items). “On us” items occur when a bank is both the originating and receiving depository financial institution (i.e., the only bank involved in the transaction). The ACH settlement detail must contain the trace identification numbers, count, and amount of the ACH items.

2. When requested by the Department, the Contractor shall initiate ACH trace procedures and report the results back to the Department within: 1) twenty- four (24) hours for items less than ninety (90) days old; and 2) a reasonable time, as agreed upon between the Department and the Contractor, for items that are ninety (90) days or older.
  3. The Contractor, through its online banking system, shall provide a Daily bank statement with the ACH amounts to the Department. The Department will reconcile the ACH amounts Daily and require the Contractor to debit and/or credit any differences found during reconciliation. The Contractor must make corrections according to National Automated Clearing House Association (NACHA) rules and no later than seventy-two (72) hours after notification by the Department.
- D. ACH Confirmation: Daily, the Contractor shall verify the accuracy of the ACH origination file totals and send confirmations to the Department and the DEO for their respective account(s). The Contractor shall provide the Department and the DEO access to its online banking system to verify that files were processed and posted to the accounts accurately.
- E. ACH Returned Items: The Contractor shall electronically send a return item file to the Department that contains, at a minimum, payee name, amount, effective date, reason, individual identification number, trace numbers, and sending company ID number. The Contractor shall encrypt the file to ensure confidentiality. The Contractor shall post the FLAIR Warrants and EFTs Account's returned items to the separate Returns Account. The Contractor shall post DEO returned items to the account of origination.
- F. ACH Notice of Changes and Returns: Daily, and in accordance with NACHA standards, the Contractor shall provide a Notice of Changes and Returns file that contains the previous day's activities to the Department and the DEO for their respective account(s). The information must also be available on the Contractor's online banking system.
- G. ACH Deletions: The day after an ACH origination file has been transmitted, the Department will transmit an electronic file of transactions to the Contractor for the purposes of deleting items from the payroll, supplemental, CJIP, and SAD files before they are transmitted to the Federal Reserve Bank. Deleted items will be credited to the Returns Account on the settlement date. The Contractor shall provide access to the information for deleted items on the Contractor's online banking system. The Contractor must provide the Department with a way to delete a transaction that is not included on this electronic file.
- H. ACH Reversals: The Contractor shall process any ACH reversal request received within the timeframe specified in the NACHA guidelines.
- I. ACH Pre-Notification: The Contractor shall send a pre-notification entry (Pre-Note) to the receiving depository financial institution and provide the Department with online access to research Pre-Noted items.

### 5.9 Deposit Items.

- A. The Department must be able to deposit encoded and non-encoded items in the form of a check or money order. The Contractor shall accept and process deposited items into the State's specified account. The Contractor shall provide same day funds availability for "on us" items for any account under this Contract, except for items issued on the FLAIR Warrants and EFTs Account (which shall have next day funds availability). For other deposited checks, the Contractor shall provide the following funds availability: 1) for domestic checks, next day availability; 2) for Canadian checks, 3-day availability; and 3) for other foreign checks, 7-day availability.
- C. The Contractor shall not place a hold on funds deposited into the accounts.
- E. For any check deposited into the FLAIR Warrants and EFTs Account or RA Warrants and EFTs Account and returned due to insufficient funds, the Contractor shall redeposit the check through the banking system one additional time. If the check is returned a second time, it will become a Chargeback. Chargebacks will be posted to the account of original deposit unless otherwise instructed.
- F. Daily, the Treasury and the DEO will reconcile deposit amounts on the Daily bank statement with amounts provided by the Department and the DEO. Should the Department owe the Contractor for a deposit reconciling difference, the Department will make the Contractor whole. Should the Contractor owe the Department for a deposit difference, the Department's designated staff will notify the Contractor by email of the amount, and the Contractor will have no more than seventy-two (72) hours to make the Department whole by correcting the deposit difference on the account.

### 5.10 Pay Checks made on Returns Account.

- A. The Contractor shall negotiate checks drawn on the Returns Account.
- B. If a check drawn on the Returns Account is not negotiated, the Contractor shall not bill the Department for the item.

### 5.11 Maintain the Accounts.

- A. The Contractor shall maintain separate controlled disbursement accounts for FLAIR Warrants and EFTs and for RA Warrants and EFTs. The Contractor will accept all wire transfers and other transfers into these accounts, in compliance with regulatory requirements (i.e., the federal government's Office of Foreign Assets Control (OFAC) requirements) or wire processor requirements, to cover Warrants and/or ACH debits paid, and give the Treasury immediate credit for, and use of, such deposits.
- B. The Contractor shall electronically report the following information to the Department through its online banking system:
  - 1. No later than 10:00 A.M. ET Daily, the amount of Warrants to be settled.
  - 2. Upon receipt or execution, the amount of incoming and outgoing wire transfers.
  - 3. Within a reasonable time after they occur, any other transactions that affect the State's account balances.

- C. The Contractor shall provide a Daily electronic bank statement and documentation showing all deposits, wire transfers, Warrants, and ACH debits paid.
- D. The Contractor shall provide a monthly invoice and a monthly analysis statement for all of the accounts for auditing and billing purposes. The analysis statement must have a summary of all transaction detail for the accounts, including the number of: Warrants paid, ACH debits paid, ACH originations, wire transfers received, wire transfers originated, and deposits processed.
- E. The Contractor shall provide all bank supplies at no additional charge to the Department and the DEO. "Supplies" include deposit slips (at least four hundred (400) per year), deposit bags (at least three hundred (300) per year), and endorsement stamps (at least two (2) per year).
- F. Overdrafts:
  - 1. Daylight Overdraft: The Contractor shall provide the Department with daylight overdraft (a circumstance in which a debit balance occurs in the course of the Business Day but is expected to be settled up by credits prior to the End of the Business Day) at no charge.
  - 2. Overnight Overdrafts: In the event of an overnight overdraft, though unexpected, the Department will provide a compensating account balance the following Business Day. Any overnight overdraft fee shall be charged according to Attachment 3, Price Response.
- G. The Contractor shall perform pre-audit match for all pre-audit Warrants presented for payment. "Pre-audit match" is a comparison of all items being presented against items issued by the Department and includes, but is not limited to, amount, Warrant number, payee name, Warrant status, and issue date. The Contractor will provide a list of all exception items to be reviewed by the Department. Additionally, the Department will utilize the ACH Fraud Filter Stop service.
- H. The Contractor shall prepare a final paid Warrant and ACH debit file for Daily submission to the Department. This file must be created after the pre-audit requirements.
- I. The Contractor shall provide monthly report data, including account activities, to assist the Department in preparing any reports needed for the RA Warrants and EFTs Account.

#### 5.12 Online Banking System.

- A. The Contractor shall provide uninterrupted electronic access to the Contractor's online banking system, excluding regular maintenance downtime (which shall occur outside of State business hours). The Contractor shall provide a list of dates for regularly scheduled maintenance to the Department upon execution of the Contract. The Contractor shall not perform unscheduled maintenance without forty-eight (48) hours' notice, and shall not interfere with Department's and the DEO's regular course of business.
- B. The online banking system must:

1. include reporting, wire transfer origination, and ACH origination capabilities for both ACH credits and debits;
  2. provide access to the functionalities described in this Statement of Work to an unlimited number of users utilizing Department-controlled, role-based security;
  3. include, at a minimum, previous day and current day reporting, and provide the Department with a means to download this information; and
  4. provide document approvals, changes, and updates to information within the system and provide inquiry/reporting capabilities.
- C. The Contractor shall provide the Department with access to online training for the online banking system.
- D. The Contractor will provide one hundred and eighty (180) days written notice for changes to the Contractor's online banking system. This applies to changes that require testing, change management, and production deployment at the Department, such as:
1. File formats and/or table structure changes.
  2. File transmission changes, including, server changes, protocol changes, transmission requirements changes, and platform changes.
  3. Changes of bank code values that will require coding changes to the Department's system, including, new Bank Administration Institute (BAI) codes, and changes to account structure.
  4. Timing changes for transmitted files.
- E. The Contractor shall notify the Department of NACHA standard changes no later than ten (10) calendar days after NACHA has published the changes so the Department can implement any necessary changes.

#### 5.13 Disaster Recovery & Service Availability.

- A. The Contractor shall provide wire transfer origination capabilities through the online banking system or by phone, fax, or any other means specified in this Contract.
- B. The Contractor shall provide the order of succession for assigned officers and key staff that the Department will work with in the regular course of business within one (1) month of Contract execution. Within this succession, the Contractor must provide Daily personalized and specialized support relative to correcting account discrepancies, providing information on account activity, and handling other operational concerns through a central contact person serving as a Daily liaison. The Contractor should also identify a senior manager to serve as a resource for resolving sensitive operational and Contract issues. If there are issues with items, the Department will notify the Contractor, and the Contractor will acknowledge all correspondence and inquiries via e-mail within two (2) hours of receipt and provide an estimated time of resolution. In the event of absences of key staff and personnel, the Contractor shall provide adequate backup with resources that are knowledgeable and have the authority to perform required duties on the Contractor's behalf.

- C. The Contractor will notify the Department, in accordance with the following time frames, of initial occurrence and corrective action updates: 1) for complete or partial system failure causing an inability to perform financial transactions, within one (1) hour; 2) for subsystems limited in capability except for reports not requiring Daily Department activity, within two (2) hours; and 3) for all other system glitches and partial non-performance not impacting the ability to perform financial transactions, within four (4) hours.
- D. The Contractor shall have an established secure back-up system for all services if the online banking system or system interfaces are unavailable. This back-up system must be functioning within eight (8) hours of the unavailability of the online banking system.
- E. The Contractor shall perform a successful annual disaster recovery test no more than fourteen (14) months after the previous test and shall yearly provide the Department with the SSAE 18 or other written confirmation of the successful performance of the annual disaster recovery test.

5.14 Operational Continuity at Contract Termination or Expiration.

- A. Upon Contract termination or expiration, the Contractor shall immediately cease services other than exit transition services (described in Section 31 of Attachment 1, Standard Terms and Conditions) and Warrant processing. At no cost to the Department, the Contractor must process Warrants for at least thirteen (13) months after the final Warrant has been issued under this Contract. The Department shall cease issuing Warrants under this Contract upon the expiration or termination of the Contract.
- B. At no cost to the Department, the Contractor shall provide:
  - 1. No later than six (6) months after the Contract's effective date, a general exit transition plan; and
  - 2. No later than thirty (30) calendar days before the Contract expires or is terminated, a detailed transition and data return plan, which must include a technical transition plan. At a minimum, the technical transition plan shall include knowledge transfer for any technology support needed by the Department or its designee to continue services. In an effort to avoid any financial loss to the Department, the Contractor shall conduct such transition with the same degree of care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use.
- C. Upon Contract expiration or termination:
  - 1. Within thirty (30) calendar days, the Contractor must return all public records and destroy duplicates in accordance with the provisions of Section 3.e. of Addendum A, Public Records Requirements, regardless of whether the Contractor meets the definition of "contractor" provided in section 119.0701(1)(a), F.S. Further, at a minimum, the Contractor must provide the Department with data definitions, table structure, the Department's data and shared data under its control, and any Developed Materials necessary for a smooth transition of the provision of the services provided under this Contract either to the Department or to another vendor.



2. Within thirty (30) calendar days, the Contractor shall issue all reports required by the Contract.
3. Within thirty (30) calendar days, the Contractor shall provide the Department with the custom source code sufficient to read the Developed Materials (in a format designated by the Department) or provide the Developed Materials in a non-proprietary format.
4. After transferring to the Department, the Contractor shall certify destruction of design files for forms, documents, and other items that provide the ability to produce State Warrants in whole or in part.
5. Except as required during the thirteen (13) months of Warrant processing, the Contractor shall remove all Department staff granted access to physical or information system resources, thereby preventing unauthorized access. As access is removed by the parties, each shall certify that such access has been removed and that all devices and tools belonging to the Contractor and in the Department's possession have been returned before closing out the Contract.

## 6. Deliverables.

Acceptance by the Department of deliverables is based on the Contractor performing in accordance with the minimum acceptance criteria described in the deliverables table listed below. Interim acceptance shall not preclude the Department from later identifying deficiencies and declining to provide Final Acceptance on that basis. Further, prior interim or Final Acceptance of a deliverable shall not preclude the Department from later declining to accept a subsequent deliverable that does not operate properly due to defects in the prior accepted deliverable. In this case, the prior accepted deliverable must be corrected before acceptance of the subsequent deliverable.

**Deliverable:** The Contractor shall provide an implementation schedule for start-up and conversion of the Department's existing system(s) and follow such schedule.

**Date/Review Cycle:** As specified in Section 5.3, above.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.3, above.

**Due Date:** For start-up, within twenty (20) calendar days of the Contract's effective date. For Florida PALM, within thirty (30) calendar days of the Department providing specifications.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.3 of the Statement of Work, the Contractor's key personnel will create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall pay Warrants, perform Positive Pay, and process Warrant forgery claims.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.4, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.4 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide, through its online banking system, image accessibility and access to the Warrant images for all paid Warrants.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.5, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.5 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide current-day wire, Warrant, and ACH presentment information each Business Day through its online banking system.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.6, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the presentment information is not provided in the time specified for funding purposes and an alternative means has not been utilized then the Contractor shall not return wire transfers as Not Sufficient Funds and there will be no overdraft fee charged. If the Contractor fails to perform in accordance with Section 5.6 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide the Department with the ability to perform repetitive and non-repetitive outgoing wire transfers.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.7, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.7 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide the services necessary for the Department to process ACH transactions.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.8, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.8 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide the Department a way to make manual check deposits if needed and provide deposit assistance to the Department for any deposit items and any problems that arise from the deposit of checks into the accounts.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.9, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.9 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall negotiate checks drawn on the Returns Account.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.10, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.10 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor must maintain separate controlled disbursement accounts, report to the Department the amount of Warrants to be settled, furnish Daily electronic bank statements and supporting documents, provide a monthly analysis statement, provide all bank supplies, provide daylight and overnight overdrafts, pre-audit Warrants presented for payment, prepare a final paid Warrant and ACH debit file and send it to the Department, provide monthly report data to assist the Department in any way with reports, and provide access to the Contractor's SSAE 18.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.11, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.11 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. Also, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

**Deliverable:** The Contractor shall provide uninterrupted electronic access to the Contractor's online banking system, excluding regular maintenance downtime (which shall occur outside of 8:00 A.M. to 5:00 P.M. ET on Business Days), and plan for and provide backup systems in case of system failure or glitches.

**Minimum Acceptance Criteria:** Performance in accordance with the requirements of Section 5.12 and 5.13, above.

**Due Date:** Continuous, from first day of Contract Go-Live.

**Financial Consequences:** If the Contractor fails to perform in accordance with Section 5.12 of the Statement of Work, the Contractor will be liable for any cost incurred by the State. If the backup functionality requirements of Section 5.13 of the Statement of Work are not met, for each hour the system is down (outside of the allotted timeframes), the Department will reduce the monthly invoice amount by \$200. Also, for non-compliance with either section, if requested by the Department, the Contractor shall create a corrective action plan at the Contractor's expense and present it to the Department for approval.

## **7. Department's Responsibilities.**

The Department will test, inspect, and accept the deliverables as described in this Contract. The Department will provide the Contractor with the State financial system information necessary to facilitate the implementation requirements outlined above.

## **8. Miscellaneous Contract Terms.**

### **8.1 Travel.**

No travel expenses will be paid.

### **8.2 Additional Services.**

If a service or deliverable is inadvertently omitted or not clearly specified in the Contract but determined to be operationally necessary and within the scope of the Contract, the parties shall amend the Contract to add the service or deliverable.

### **8.3 PUR 1000.**

The following provisions of Attachment 4, PUR 1000, are not applicable to this Contract:

- Section 2. Purchase Orders;
- Section 3. Product Version;
- Section 4. Price Changes Applicable only to Term Contracts: subsections (b), Best Pricing Offer, and (e), Equitable Adjustment;
- Section 5. Additional Quantities;
- Section 6. Packaging;
- Section 8. Safety Standards;
- Section 11. Transportation and Delivery;
- Section 12. Installation;
- Section 20. Limitation of Liability;
- Section 27. Purchase Order Duration;
- Section 29. Assignment;
- Section 31. Dispute Resolution,
- Section 32. Employees, Subcontractors, and Agents;
- Section 39. Leases and Installment Purchases; and
- Section 43. Cooperative Purchasing.

### **8.4 Bonds.**

In addition to the insurance requirements of Attachment 1, Standard Terms and Conditions, Section 10, Insurance, the Contractor shall maintain the following throughout the Contract term:

- A. Fidelity Bond - Fidelity Employee Insurance and Computer Crime Insurance providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of the Contractor or its agents, acting alone or in collusion with others, in a minimum amount of \$1,000,000 per loss.
- B. Errors and Omissions Bond - Errors and Omissions Liability Insurance, including Privacy and Internet/Network Liability, with a minimum limit of \$1,000,000 per occurrence and in the aggregate, which can be satisfied by primary or excess professional limits, providing coverage for errors and omissions arising out of the performance or nonperformance of the Contract by the Contractor and/or its subcontractors.

### **8.5 Termination of the Contract.**

- A. Termination by the Department. The Department may unilaterally terminate the Contract by providing the Contractor with two (2) months' written notice.

- B. Termination by the Contractor: For the avoidance of doubt, Section 8.5.B.1., below, states the only circumstances in which, and the only grounds on which, the Contractor has the right to terminate the Contract prior to its expiration. The Contractor's termination notice will not be effective unless it references this section and expressly states that the Contractor intends to pursue termination of the Contract if the Department's failure to pay undisputed amounts due and owing is not cured within the applicable cure period. The Department's failure to perform (or failure to cause to be performed by an applicable third party) or material delay in performing any of the Department's responsibilities under this Contract will not constitute grounds for termination of the Contract. However, the Contractor may obtain a schedule delay in accordance with Section 24, Force Majeure, of Attachment 4, PUR 1000, with reasonable notice of such nonperformance and, if so requested by the Department, shall use commercially reasonable efforts to perform notwithstanding such Department failure. In the event the Department has failed to perform due to noncompliance with applicable laws, the Department will create a corrective action plan at its expense and present it to the Contractor for approval. The corrective action plan will provide for an agreed upon resolution and such resolution shall be at the Department's cost. Any termination by the Contractor will be subject to the provisions of the Exit Transition requirements specified in this Statement of Work.
1. If the Department fails to pay the Contractor when due undisputed charges totaling at least two (2) months' charges under the Contract and fails to make such payment within thirty (30) days after receiving notice of non-payment from the Contractor which references this section and specifically states the Contractor's intent to terminate the Contract if the past due amount is not paid within such thirty (30) day time period, the Contractor may terminate the Contract as of a date specified in a separate written notice of termination given to the Department. The Contractor's termination notice will not be effective unless it references this Contract section and expressly states that the Contractor intends to pursue termination of the Contract if the Department's failure to pay undisputed amounts due and owing is not cured within the applicable cure period.

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

**Attachment 4**

**Contents**

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

- (a) “Contract” means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
- (b) “Customer” means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The “Customer” may also be the “Buyer” as defined in the PUR 1001 if it meets the definition of both terms.
- (c) “Product” means any deliverable under the Contract, which may include commodities, services, technology or software.
- (d) “Purchase order” means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

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

**3. Product Version.** Purchase orders shall be deemed to reference a manufacturer’s most recently release model or version of the product at the time of the order, unless the Customer

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

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

- (a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
- (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
- (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
- (d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.
- (e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

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



- 6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.
- 7. Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
- 8. Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.
- 9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
- 10. Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
- 11. Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.
- 12. Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents.

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

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

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

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

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

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

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

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

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

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

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

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

or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

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

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

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

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

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

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

- 21. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.
- 22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.
- 23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

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

solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

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

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

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

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

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

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

**28. Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the

Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

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

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

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



- 33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.
- 34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.
- 35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.
- 36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
- 37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.
- 38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

- 39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.
- 41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.
- 42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.
- 43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

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

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

***\*\*Remainder of page left intentionally blank\*\****

**DEPARTMENT OF FINANCIAL SERVICES**  
**Public Records Requirements**

**Addendum A**

**38. Public Records Access Requirements.**

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

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

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

- e. If the Contractor claims that the records are “Trade Secret” pursuant to section 624.4213, F.S., and all the requirements of section 624.4213(1), F.S., are met, the Department will respond to the Public Records Request in accordance with the provisions specified in that statute.
- f. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.

**40. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.**

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

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

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

**DEPARTMENT OF FINANCIAL SERVICES**  
**Data Security Requirements**

**Addendum B**

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

- a. **Data Security.** The Contractor, its employees, subcontractors, and agents, shall comply with Rule Chapter 74-2, Florida Administrative Code (F.A.C.), which contains information technology (IT) procedures and requires adherence to the Department's security policies, in performance of this Contract. The Contractor shall provide immediate notice to the Department's Information Security Office (ISO), within the Office of Information Technology: 1) in the event it becomes aware of any security breach or any unauthorized transmission or loss of any or all of the data collected, created for, or provided by the Department (State Data); and 2) of any allegation or suspected violation of Rule Chapter 74-2, F.A.C. Except as required by law or legal process, and after notice to the Department, the Contractor shall not divulge to third parties any Confidential Information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Contract work according to applicable rules, including, but not limited to, Rule Chapter 74-2, F.A.C. "Confidential Information" means information in the possession or under the control of the state of Florida (State) or the Contractor that is exempt from public disclosure pursuant to Chapter 119, Florida Statutes (F.S.), or to any other applicable provision of State or federal law that serves to exempt information from public disclosure. This includes, but is not limited to, the security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department. The Contractor will not be required to keep confidential any information that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's Confidential Information, or information that is otherwise obtainable under State law as a public record. If State Data will reside in the Contractor's system, the Department may conduct, or request the Contractor conduct at the Contractor's expense, an annual network penetration test or security audit of the Contractor's system(s) on which State Data resides. If the Contract is less than a year in duration, the right to conduct the network penetration test or security audit of the Contractor's system(s) on which State Data resides can be exercised at any time.
- b. **Data Protection.** No State Data will be transmitted, processed, or stored outside of the United States of America regardless of method, except as required by law. Access to State Data will only be available to staff approved and authorized by the Department that have a legitimate business need. Access to State Data does not include remote support sessions for devices that might contain the State Data; however, during the remote support session the Department requires the Contractor to escort the remote support access and maintain visibility of the support personnel's actions. Requests for remote access will be submitted to the Department's Help Desk. With approval, third parties may be granted time-limited terminal service access to IT resources as necessary for fulfillment of related responsibilities. Remote connections are subject to detailed monitoring via two-way log reviews and the use of other tools. When remote access is no longer needed, the ISO will be promptly notified and access will be promptly removed.
- c. **Encryption and Remote Access.** The Contractor shall encrypt all data transmissions containing Confidential Information utilizing a protocol approved by the Department.
- d. **Breach and Negligence.** The Contractor agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses, and liabilities arising from or in any way related to the Contractor's breach of this Section 1 or the negligent acts or omissions of the Contractor related to this addendum.

- e. Separate Security Requirements. Any Criminal Justice Information Services-specific and/or Health Information Portability and Accountability Act-specific security requirements are attached in a separate addendum, if applicable.
- f. Ownership of State Data. State Data will be made available to the Department upon its request, in the form and format reasonably requested by the Department. Title to all State Data will remain property of the Department and/or become property of the Department upon receipt and acceptance. The Contractor shall not possess or assert any lien or other right against or to any State Data in any circumstances.

**2. Data Access.**

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

**DEPARTMENT OF FINANCIAL SERVICES  
Evaluator Score Sheet**

**Attachment B**

**\*\*This document is attached separately. \*\***



**DEPARTMENT OF FINANCIAL SERVICES**  
**Mandatory Criteria Certification**

**Attachment C**

**This form must be completed by the Respondent's authorized representative. The Respondent acknowledges that the Department will rely on the representations made on this form in making its decision of award. If the Department discovers that any of the information on this form is false prior to the award of the Contract, the Department will deem the Respondent non-responsive and cease any consideration of its Response. If the Department discovers that any information on this form is false after the award to the Respondent is made, the Department reserves the right to terminate the Contract and hold the Respondent liable for costs associated with re-procurement.**

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1. Does the Respondent certify that it agrees to the terms above?  
Yes \_\_\_ No\_\_\_
  
2. Does the Respondent certify that the person submitting the Response is authorized to respond to this ITN on the Respondent's behalf?  
Yes \_\_\_ No\_\_\_
  
3. Does the Respondent meet the requirements for having no known Conflicts of Interest as outlined in Section 6 of the PUR 1001?  
Yes \_\_\_ No\_\_\_
  
4. Does the Respondent certify that it is not a Discriminatory Vendor or Convicted Vendor as defined in Sections 7 and 8 of the PUR 1001?  
Yes \_\_\_ No\_\_\_
  
5. Does the Respondent certify compliance with Section 9, Respondent's Representation and Authorization, of the PUR 1001?  
Yes \_\_\_ No\_\_\_
  
6. Does the Respondent agree to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its Response are confidential, proprietary, trade secret, or otherwise not subject to disclosure?  
Yes \_\_\_ No\_\_\_
  
7. Certify one and write N/A on the others, or select "no" for each if none can be certified to:
  - a. Does the Respondent certify that it is registered with the Florida Department of State?  
Yes \_\_\_ No\_\_\_ N/A\_\_\_
  - OR**
  - b. Does the Respondent certify that if awarded a contract under this solicitation, it will register with the Florida Department of State prior to execution of the Contract?  
Yes \_\_\_ No\_\_\_ N/A\_\_\_
  - OR**

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

Yes \_\_\_ No\_\_\_ N/A\_\_\_

8. Certify one and write N/A on the other, or select “no” for each if none can be certified to:

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

Yes \_\_\_ No\_\_\_ N/A\_\_\_

**OR**

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

Yes \_\_\_ No\_\_\_ N/A\_\_\_

9. Does the Respondent agree not to seek indemnification from the Department for any costs or services?

Yes \_\_\_ No\_\_\_

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

Yes \_\_\_ No\_\_\_

11. Does the Respondent certify that it has deposits of at least \$3,000,000,000?

Yes \_\_\_ No\_\_\_

12. Does the Respondent certify that it has the ability to accept paper deposits?

Yes \_\_\_ No\_\_\_

13. Does the Respondent certify that it, and any proposed subcontractors or partners that will hold State funds, are certified as a Qualified Public Depository as described in Chapter 280, Florida Statutes?

Yes \_\_\_ No\_\_\_

14. Does the Respondent meet the requirements for designating key personnel according to Section 3.7.2 of the ITN?

Yes \_\_\_ No\_\_\_

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Name of the Respondent: \_\_\_\_\_

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

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

**DEPARTMENT OF FINANCIAL SERVICES  
Price Response Form**

**Attachment D**

**\*\*This document is attached separately. \*\***

**DEPARTMENT OF FINANCIAL SERVICES  
Business Reference Form**

**Attachment E**

**The Respondent must require its references to complete the form providing all the requested information. References should be directly relevant to the services in the solicitation. Incomplete forms (i.e., blanks left on the form and not notarized) will not be submitted to evaluators.**

This form must be completed by the person giving the reference for the Respondent. The Respondent is submitting a reply to a solicitation. For purposes of this form, the Respondent is the business entity that currently or has previously provided services to your organization. This business reference is for (Respondent's Name): \_\_\_\_\_

Upon completion of this form, please return original to Respondent.

|                              |                                     |
|------------------------------|-------------------------------------|
| <b>REFERENCE INFORMATION</b> |                                     |
| <b>Organization Name:</b>    | <b>Phone #:</b> (        )        - |
| <b>Reference Name:</b>       | <b>Title:</b>                       |

|   |  |
|---|--|
| <b>BUSINESS RELATIONSHIP WITH RESPONDENT</b>  |  |
| <b>Relationship to Respondent:</b> (e.g., subcontractor, customer).   | <b>Years of Relationship:</b> _____<br><b>Dates:</b>   |
| If a customer, please describe the primary service the Respondent provides your organization:   | <b>Respondent acted as:</b><br><input type="checkbox"/> primary provider <b>or</b> <input type="checkbox"/> subcontractor <b>or</b> <input type="checkbox"/> N/A |
| Do you have a business or professional interest in the Respondent's organization?: <input type="checkbox"/> Yes <b>or</b> <input type="checkbox"/> No |  |
| If yes, please describe:  |  |

|   |  |
|---|--|
| <b>PERFORMANCE OF RESPONDENT</b>  |  |
| Have you experienced any performance problems with the Respondent's organization?: <input type="checkbox"/> Yes <b>or</b> <input type="checkbox"/> No |  |
| If yes, please describe:  |  |

As the person authorized to sign the statement, I certify that the above information is correct. I also certify that I am not:

- a current employee of the Department;
- a former employee of the Department, within the past three (3) years;
- a person currently or formerly employed by the Respondent's organization;
- a board member of the Respondent's organization; or
- a relative of any of the above.

I further certify that:

- the business organization that I work for is not based solely in a foreign country; and
- a member of the Respondent's organization, has not has written and/or otherwise completed this form on my behalf.

\_\_\_\_\_  
Reference's Original Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Reference Name

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Signature of Notary Public  
Print, Type/Stamp Name of Notary

Personally known: \_\_\_\_\_  
OR Produced Identification: \_\_\_\_\_  
Type of Identification Produced: \_\_\_\_\_

**DEPARTMENT OF FINANCIAL SERVICES**  
**Award Preferences for Identical Evaluations of Responses**

**Attachment F**

**This form must be completed by the Respondent in the event of a tie if requested by the Department. If the Department discovers that any information on this form is false after the award to the Respondent is made, the Department reserves the right to terminate the Contract and hold the Respondent liable for costs associated with re-procuring the services.**

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**SECTION 1:** Respondents shall certify one or more of the following by checking the adjacent box(es):

**SECTION 2:**  A. The response is from a certified minority-owned firm or company and the net worth of the company is \_\_\_\_\_;

**SECTION 3:**  B. The response is from a veteran-owned business certified according to section 295.187, F.S., and the net worth of the company is \_\_\_\_\_;

**SECTION 4:**  C. The response is from a Florida-domiciled entity;

**SECTION 5:**  D. The commodities used in this contract are manufactured, grown, or produced within Florida;

**SECTION 6:**  E. The response is from a foreign manufacturer with a factory in Florida employing over two hundred (200) employees working in Florida;

F. The response is from a business that certified at the time of the Response that it has implemented a drug-free workplace program in accordance with section 287.087, F.S.;

**SECTION 7:**  G. **The response is from a company that is not eligible for any of the above preferences.**

**SECTION 8:**

---

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Name of Organization: \_\_\_\_\_

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

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

**DEPARTMENT OF FINANCIAL SERVICES**  
**Non-Disclosure Agreement**

**ATTACHMENT G**

In connection with Invitation to Negotiate No. 1718-13 ITN TR (ITN), the Department of Financial Services (Department) is disclosing to \_\_\_\_\_ (you) confidential business information, technical information, and restricted procedures and/or ideas (Confidential Information).

In consideration of the sensitive nature of such disclosure, you agree as follows:

1. You will hold in confidence and not use (except to evaluate, review, or respond in relation to the ITN) or disclose any Confidential Information except information you can document: (a) is in the public domain through no fault of yours; (b) was properly known to you, without restriction, prior to disclosure by the Department; or (c) was properly disclosed to you by another person without restriction; and that you will not reverse engineer or attempt to derive the composition or underlying information, structure, or ideas of any Confidential Information. The foregoing does not grant you a license in or to any of the Confidential Information.
2. If you are not awarded a contract pursuant to the ITN, or if the Department so requests, you will promptly return all Confidential Information and all copies, extracts, and other objects or items in which it may be contained or embodied.
3. You will promptly notify the Department of any unauthorized release of Confidential Information.
4. You understand that this statement does not obligate the Department to disclose any Confidential Information or to negotiate or enter into any agreement or relationship with you.
5. You acknowledge and agree that due to the unique nature of the Confidential Information, any breach of this agreement would cause irreparable harm to the Department or the state of Florida, for which damages are not adequate remedies, and that the Department shall therefore be entitled to equitable relief in addition to all other remedies available at law.
6. The terms of this agreement will remain in effect with respect to any particular Confidential Information until you can document that it falls into one of the exceptions stated in Section 1, above.
7. This Agreement is governed by the laws of the state of Florida and may be modified or waived only in writing. If any provision is found to be unenforceable, such provision will be limited or deleted to the minimum extent necessary so that the remaining terms remain in full force and effect. Except as otherwise provided by law, you will be responsible for your own attorney's fees incurred in connection with disputes arising under the terms of this Non-Disclosure Agreement (and the Department will be responsible for its attorney's fees incurred in connection with disputes arising under the terms of this Non-Disclosure Agreement).

In accordance with the ITN, if you are deemed to be a responsive Respondent after submission of your Stage 1 Response to the ITN, the Department will provide you with a document entitled "Technical Information." The terms of this agreement apply to all information contained in that document, which includes, but is not limited to, the following types of Confidential Information:

- Warrant File Specifications

- Current MICR Line Encoding for state of Florida Warrants
- ACH Payroll Retiree Pre-Note file format
- Notice of Change and Returns file format
- Collections and Payroll file format
- Expense Payments EDI file format
- IAT file format
- Positive Pay file format

The terms of this agreement also apply to all clarifications or additional details provided regarding the information included in this document, which may be provided verbally or in writing throughout the ITN process.

Acknowledged and agreed on \_\_\_\_\_, 2018:

By: \_\_\_\_\_  
(Signature)

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

Title: \_\_\_\_\_