



DEPARTMENT OF BUSINESS and PROFESSIONAL REGULATION

INVITATION TO BID

Solicitation Acknowledgement Form

Page <u>1</u> of <u>44</u> pages	SUBMIT RESPONSE TO: Department of Business and Professional Regulation (DBPR) Bureau of Agency Services 2601 Blair Stone Road, Building A First Floor, Contract/Procurement Administration Office Tallahassee, Florida 32399-1040 Telephone Number: 850-717-1374, Fax: 850-921-9019
AGENCY RELEASE DATE: September 17, 2019	

SOLICITATION TITLE: Orlando Facility Rental for Licensure Examinations	SOLICITATION NO: ITB-DBPR-04-19/20
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BIDS WILL BE OPENED: **October 9, 2019 03:00 PM**
 and may not be withdrawn within 180 days after such date and time.

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

RESPONDENT NAME:	_____ * Authorized Representative's Signature _____ * Typed Name and Title of Authorized Representative *This individual must have the authority to bind the Respondent.
RESPONDENT MAILING ADDRESS:	
CITY - STATE - ZIP:	
PHONE NUMBER:	
TOLL FREE NUMBER:	
FAX NUMBER:	
EMAIL ADDRESS:	
FEID NO.:	
TYPE OF BUSINESS ENTITY (Corporation, LLC, partnership, etc.):	

RESPONDENT CONTACTS: Please provide the name, title, address, telephone number and e-mail address of the official contact and an alternate, if available. These individuals shall be available to be contacted by telephone or attend meetings as may be appropriate regarding the solicitation schedule.

PRIMARY CONTACT:		SECONDARY CONTACT:	
NAME, TITLE:		NAME, TITLE:	
ADDRESS:		ADDRESS:	
PHONE NUMBER:		PHONE NUMBER:	
FAX NUMBER:		FAX NUMBER:	
EMAIL ADDRESS:		EMAIL ADDRESS:	

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**SECTION A
SPECIAL INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF RESPONSES**

The instructions for this ITB have been designed to help ensure that all replies are reviewed and evaluated in a consistent manner, as well as to minimize costs and response time. INFORMATION SUBMITTED IN VARIANCE WITH THESE INSTRUCTIONS MAY NOT BE REVIEWED OR EVALUATED.

- A.1 **Solicitation Number** ITB-DBPR-04-19/20
- A.2 **Solicitation Type** Invitation to Bid (ITB)
- A.3 **Program Office** Bureau of Education and Testing
Melody Porter, Government Operations Consultant II
Alex Bosque, Examination Development Specialist Supervisor
- A.4 **Issuing Office** Beverly L. Elliott, Procurement Administrator
Bureau of Agency Services, Contract/Procurement Administration Office
Capital Commerce Center, 2601 Blair Stone Road, Bldg. A First Floor,
Tallahassee, Florida 32399-1040
(850) 717-1419 (Office Number)
(850) 921-9019 (Fax Number)
Email: Beverly.Elliott@MyFloridaLicense.com

A.5 Restrictions on Communication with Department Staff

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of this solicitation and the end of the seventy-two (72) hour period following the Department posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement office named above. Violation of this provision may be grounds for rejecting a response.

A.6 Calendar of Events

Listed below is the calendar of important actions and dates/times by which the actions must be taken or completed. If the Department finds it necessary to change any of these dates/times, it will be accomplished by addendum. All listed times are local in Tallahassee, Florida.

	Estimated Calendar of Events	Date and Time
1.	Date of Issuance and published on the Florida Vendor Bid System website at: http://vbs.dms.state.fl.us/vbs/main_menu	September 17, 2019
2.	Technical Questions due from prospective Respondents	September 25, 2019 at 3:00 PM
3.	Questions and Answers Posted to the Florida Vendor Bid System website (via addendum) at: http://vbs.dms.state.fl.us/vbs/main_menu	October 2, 2019 at 3:00 PM
4.	Responses Due and Opened	October 9, 2019 at 3:00 PM
5.	Review of Bid Responses Due	October 16, 2019 at 3:00 PM

Field Code Changed

Field Code Changed

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6.	Anticipated Posting of Intended Award	October 23, 2019 at 3:00 PM
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Addenda or clarifications to this ITB will be posted on the Florida Vendor Bid System (VBS) along with an Addendum Acknowledgement Form. The Addendum Acknowledgement Form that is issued with each posting shall be signed by an individual authorized to bind the respondent, dated, and submitted with the solicitation response. **It is the Respondent's responsibility to monitor the Florida Vendor Bid System for any solicitation updates.**

A.7 Notice of Potential Federal Funding

All or some portion of this procurement may be funded with federal funds. The exact amount of federal funding used will be based on the Department's federally approved cost allocation plan.

A.8 Questions *(This section supersedes Appendix A, PUR 1001, Instruction #5, Questions)*

Any questions from Respondents concerning this ITB shall be submitted in writing, identifying the submitter, to Beverlyn Elliott at the address specified in Section A.4, Issuing Office, or by email to Beverlyn.Elliott@MyFloridaLicense.com and by the date and time specified in Section A.6, Calendar of Events. E-mail inquiries are preferred; however, a hard copy or facsimile is acceptable. All questions and/or changes to the solicitation will be posted on the Florida Vendor Bid System (VBS) as an addendum. It is the prospective Respondent's responsibility to periodically check the VBS for any solicitation updates. The Department bears no responsibility for any delays, or resulting impacts, associated with a prospective Respondent's failure to obtain the information made available through the Florida Vendor Bid System.

Field Code Changed

Each Respondent shall be responsible for any and all services required under this solicitation. The Respondent is required to carefully examine the specifications set forth and to be knowledgeable of any and all conditions and requirements that may in any manner affect the work to be performed as described in this solicitation. No allowances will be made to the selected Respondent because of lack of knowledge of conditions or requirements, and the selected Respondent will not be relieved of any liabilities or obligations.

INFORMATION WILL NOT BE PROVIDED BY THE TELEPHONE. Any information received through oral communication shall not be binding on the Department and shall not be relied upon by any Respondent.

Information on Federal Procurement Regulations, State Statutes or Rules, referred to in this solicitation may be obtained by contacting the Procurement Administrator listed in Section A.4.

A.9 Submission of Responses *(This section supersedes Appendix A, PUR 1001, Instruction #3, Electronic Submission of Responses)*

Responses are to be submitted in a sealed envelope with the response number and opening date and time identified on the outside. Electronic submission of responses is not required and will not be accepted for this solicitation. Responses may be sent by U.S. Mail, Courier, or Hand-Delivered. **RESPONSES SUBMITTED ELECTRONICALLY OR BY FACSIMILE WILL NOT BE CONSIDERED.**

Each response shall be prepared simply and economically, following the instructions contained herein.

It is recommended that all responses be hand-delivered or sent via certified mail or overnight courier to ensure timely delivery. Since the Capital Commerce Center is a secured building, if you are hand-delivering your response, please allow for sufficient time to gain access into the building. **RESPONSES RECEIVED AFTER THE EXACT TIME SPECIFIED WILL NOT BE CONSIDERED AND WILL BE RETURNED TO THE RESPONDENT UNOPENED.**

A.10 Withdrawal of Response

A submitted response may be withdrawn if, within seventy-two (72) hours after the response due date and time indicated in the Calendar of Events, the Respondent submits a signed, written request for its withdrawal to the Department.

A.11 Response Opening *(This section supersedes Appendix A, PUR 1001, Instruction #12, Public Opening)*

The response opening will be held at the time and date specified in Section A.6, "Calendar of Events" in the DBPR Procurement Office, Capital Commerce Center, 2601 Blair Stone Road, Bldg. A, First Floor, Tallahassee, Florida.

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The name of all Respondents submitting responses shall be made available to interested parties upon written request to the contact person listed in Section A.4. Any person with a qualified disability shall not be denied equal access and effective communication regarding any solicitation documents or the attendance to any related meeting or response opening.

Sealed responses received by the Department in response to this solicitation are subject to production, disclosure, inspection and copying, in accordance with Chapter 119, Florida Statutes, once the Department posts its decision or intended decision pursuant to s. 120.57(3)(a), F.S., or 30 days after the response opening, whichever is earlier.

A.12 Solicitation Requirements

The following requirements must be met by the Respondent in order for its response to be considered responsive to this solicitation. Although there are other criteria set forth in this ITB, these are the only requirements deemed by the Department to be mandatory for a response to be considered responsive. **Failure to meet these requirements will result in a response not being evaluated and rejected as non-responsive.**

MANDATORY REQUIREMENTS FOR EVALUATION

- A. It is **MANDATORY** that the Respondent submits its bid within the time frame specified in Section A.6, Calendar of Events.
- B. The Department has also established certain mandatory requirements that must be included as part of any response. The use of the terms "shall", "must", or "will" indicates a **MANDATORY** requirement or condition.
- C. It is **MANDATORY** that the Respondent return one (1) original, three (3) paper copies, and one (1) electronic copy (on compact disc) of the signed bid documents in a sealed bid package.
Required original signed attachments are as follows:
 - 1. DBPR Solicitation Acknowledgement Form
 - 2. Attachment A – Reference Form
 - 3. Attachment B – Bid Cost Sheet
 - 4. Attachment C – Drug Free Workplace Certification
 - 5. Attachment D – Disclosure Statement/Conflict of Interest
 - 6. Attachment F – Certifications and Assurances
 - 7. Attachment G – Affidavit – Notice of Trade Secret
- D. It is **MANDATORY** that the Respondent submits one (1) original Solicitation Acknowledgement and/or Addendum Acknowledgement Form for each addendum or clarification to this solicitation which has been signed and dated by an individual authorized to bind the Respondent.

Warning: Failure to meet these requirements will result in the response not being evaluated and rejected as non-responsive.

Responses that do not meet all material requirements of this response or which fail to provide all required information, documents or materials will be rejected as non-responsive. Material requirements of the response are those set forth as mandatory, or without which an adequate analysis and comparison of responses is impossible, or those which affect the competitiveness of responses or the cost to the Department. Respondents whose replies, past performance or current status do not reflect the capability, integrity or reliability to perform fully and in good faith the requirements of the contract may be rejected as non-responsive.

A.13 Cost of Preparing Respondent's Reply

The Department is not liable for any costs incurred by a Respondent in responding to this ITB, or for any cost incurred for any oral presentations.

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A.14 Disclosure and Ownership of Responses by the Department

A Respondent's response shall be a public record and subject to production, disclosure, inspection and copying consistent with the requirements of Chapter 119, Florida Statutes. All information in a Respondent's response (including, without limitation, technical and price information), and any resulting contract which incorporates the successful response, will be a matter of public record, subject to the provisions of Florida's Public Records Act, Chapter 119, Florida Statutes, regardless of copyright status. A Respondent's submission of a response shall constitute a waiver of any copyright protection which might otherwise apply to the Department's production, disclosure, inspection and copying of such response and contract, or any part thereof, except those parts which the Respondent identifies as exempt under Chapter 119, Florida Statutes, as described in Section A.15 below. All non-exempt portions of a Respondent's response, upon submission, and any resulting contract shall be the property of the Department. The Department, in its sole discretion, shall have the right to use, reproduce, and disseminate the non-exempt portions of the response and the contract. The Department reserves the right to use any and all information contained in a Respondent's response.

The Department and the State of Florida shall have the right to use such ideas or adaptations of those ideas contained in any response provided by a Respondent without cost or charge. Selection or rejection of the response will not affect this right.

A.15 Confidential, Proprietary or Trade Secret Information and Material

Any response content submitted to the Department which is asserted to be exempt under Chapter 119, Florida Statutes, shall be set forth on a page or pages separate from the rest of the response, and clearly marked "exempt," "confidential," or "trade secret" (as applicable), with the statutory basis for such claim of exemption, confidentiality, or trade secret specifically identified in writing on each and every such page. **Failure to segregate and so identify any such content shall constitute a waiver of any claimed exemption, confidentiality, or trade secret as applied to the portion of the response or other document in which the content is set forth.**

Any claim of confidentiality is waived upon submission, unless addressed as set forth above. The Department will attempt to afford protection from disclosure of any trade secret as defined in section 812.081(1)(c), Florida Statutes, where identified as such in the reply, to the extent permitted under section 815.045, Florida Statutes, and chapter 119, Florida Statutes. Each Respondent acknowledges that the protection afforded by section 815.045, Florida Statutes, is incomplete, and hereby agrees that no remedy for damages may arise from any disclosure by the Department.

The Department takes its public records responsibilities under chapter 119, Florida Statutes, and Article I, Section 24 of the Florida Constitution, very seriously. **If a Respondent considers any portion of the documents, data or record submitted in response to this solicitation to be confidential, trade secret or otherwise not subject to disclosure pursuant to chapter 119, Florida Statutes, the Florida Constitution, or other authority, the Respondent must also provide the Department with a separate Redacted Copy of its response, in hard copy and on a CD ROM, at the time of response submission.**

This Redacted Copy shall contain the Department's solicitation name, number, and the name of the Respondent on the cover, and shall be clearly titled "Redacted Copy." The Redacted Copy shall be provided to the Department at the same time the Respondent submits its response to the solicitation and must only exclude or obliterate those exact portions which are claimed confidential, proprietary, or trade secret.

Respondent shall protect, defend, and indemnify, save and hold harmless, the Department from any and all claims, demands, liabilities and suits of any nature arising out of, because of, or due to failure of the Department to release information redacted by the Respondent, and to further indemnify the Department for any other loss the Department incurs due to any claim being made against the Department regarding portions of its Redacted Copy being confidential, proprietary, trade secret or otherwise not subject to disclosure.

Notwithstanding compliance with the first paragraph of Section A.14, if Respondent fails to submit a Redacted Copy with its response, the Department is authorized to produce the entire document(s), data or records submitted by respondent in answer to a public records request.

A.16 Posting of Recommended Award *(This section supersedes Appendix A, PUR 1001, Instruction #13, Electronic Posting of Notice of Intended Award).*

The Response Tabulation, with recommended award, will be posted for review by interested parties at the location identified in Section A.6, "Calendar of Events" above and on the Florida Vendor Bid System for a period of seventy-two (72) hours, excluding weekends and State observed holidays. Any Respondent who desires to protest the recommended award must file a protest with the Procurement Office,

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Department of Business and Professional Regulation, 2601 Blair Stone Road, Bldg. A, First Floor, Tallahassee, Florida 32399, within the time prescribed in section 120.57(3), Florida Statutes, and Chapter 28-110, Florida Administrative Code.

A.17 Description of Work Being Procured

The Department is requesting bids from qualified contractors for facility rental for specific dates listed herein, to conduct licensure examinations. All work shall be performed in accordance with the Bid Specifications contained in Section B.

A.18 Number of Awards

The Department anticipates the issuance of one (1) purchase order for services under this solicitation. The Department reserves the right to issue multiple purchase orders if doing so is believed to be advantageous to the Department and the State of Florida. The Department, at its sole discretion, shall determine whether multiple purchase orders will be issued.

A.19 Contract Period

Any agreement resulting from this invitation to bid shall be for an initial term of one (1) year, commencing July 1, 2019 and ending June 30, 2020, pursuant to annual purchase order in the form of purchase order set forth in Section C herein. The agreement may be renewed pursuant to annual purchase order for one (1) additional year, from July 1, 2020 through June 30, 2021. Any renewal is contingent upon satisfactory performance by the Contractor and the availability of funds.

A.20 Type of Contract Contemplated *(This section supersedes Appendix B, PUR 1000, Condition #2, Purchase Order)*

A fixed price contract is proposed; however, the Department reserves the right to award another type of contract or purchase order if doing so is believed to be advantageous to the Department and the State of Florida, considering price and other factors. The Contractor shall be paid for the services rendered under the contract upon satisfactory completion of these services.

A copy of the proposed Scope of Work containing all requirements is included in Section B. The requirements contained in the proposed Scope of Work and Annual Purchase Order should be closely reviewed by the Respondent. The Department may consider any modifications proposed by the Respondent if it is determined to be in the best interest of the Department.

Information on Federal procurement regulations, State statutes and rules referred to in this solicitation and in the Department Core Contract, may be obtained by contacting the Department's Bureau of Agency Services referred to in Section A.4 above.

A.21 Response Acceptance Period

The Department intends to execute the contract(s) as soon as possible after the posting of the Department's decision. The Department, at its discretion, may terminate discussions with the first ranked Respondent if an agreement is not executed within thirty (30) days after the announcement of an award and may proceed to award the contract to the second ranked Respondent.

A.22 Firm Response *(This section supersedes Appendix A, PUR 1001, Instruction #14, Firm Response).*

Any submitted response shall remain firm and valid for one hundred eighty (180) days after the response submission due date, or until a contract is fully executed, whichever occurs first. The Respondent shall not withdraw any response within this time period except as described in Section A.10. Any response that expresses a shorter duration of validity may, in the Department's sole discretion, be accepted or rejected.

A.23 Disclosure

Information will be disclosed to Respondents in accordance with State statutes and rules applicable to this solicitation.

A.24 Laws and Permits

Contractor(s) must comply with all local, state and federal laws, rules, regulations and codes whenever work is being performed under this contract. All permits and licenses required for this contract must be obtained by the contractor and maintained for the duration of the contract.

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A.25 Insurance (This section supersedes Appendix B, PUR 1000, Instruction #35, Insurance Requirements.)

The Contractor selected under this ITB shall maintain, during the life of the contract, Workers' Compensation Insurance for all of its employees connected with this contract. Such insurance shall comply fully with the Florida Workers' Compensation Law. In case any class of employee engaged in hazardous work under the contract is not protected under the Workers' Compensation statute, the Contractor shall provide adequate insurance, satisfactory to the Department, for the protection of its employees not otherwise protected.

The Contractor selected under this ITB shall maintain, during the life of the contract, comprehensive general liability coverage with limits of not less than \$100,000 per occurrence and \$500,000 general aggregate for bodily injury and property damage.

The selected Contractor's current certificate of insurance shall contain a provision that the insurance will not be canceled or modified for any reason except after thirty (30) days written notice to the Department Contract Manager, with the exception of ten (10) days' notice for non-payment of premium by the insured.

The selected Contractor shall be required to submit insurance certificates, evidencing such insurance coverage, prior to the execution of a contract with the Department. The insurance certificate must name the Department and identify the Department Contract Number. Copies of new insurance certificates must be provided to the Department Contract Manager with each insurance renewal.

A.26 Vendor Registration

Prior to entering into a contract with the Department, the selected contractor must be registered with the Florida Department of Management Services (DMS) MyFloridaMarketPlace (MFMP) Vendor Registration System. Information about the registration process is available, and registration may be completed, at the MFMP website (link available under "Business" at <http://www.myflorida.com/>). Respondents who do not have Internet access may request assistance from MFMP Customer Services at (866) 352-3776.

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The following DMS Class/Group code is provided to assist you in the registration process:
80131500 – Lease and Rental of Property or Building

A list of Commodity Codes can be found here: https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources, but if you need assistance the DBPR Purchasing Office can help.

Field Code Changed

A.27 Florida Department of State Registration Requirements

All entities identified under chapters 607, 608, 617, 620, 621 or 865, Florida Statutes, seeking to do business with the Department of Business and Professional Regulation shall, prior to award of a contract, be appropriately registered with the Florida Department of State.

A.28 Staffing Changes

The successful Contractor shall staff the project with key personnel identified in the Contractors' response, which are considered by the Department to be essential to this project. Prior to substituting any key personnel, the Contractor shall notify and obtain written approval from the Department. Written justification must include documentation of the circumstances requiring the changes and a list of the proposed substitutions in sufficient detail to permit evaluation of the impact on the project. The Department, at its discretion, may agree to accept personnel of equal or superior qualifications in the event that circumstances necessitate the replacement of previously assigned personnel.

A.29 Diversity

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The state is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the state is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the state's procurement process as

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both Contractors and subcontractors in this solicitation. Small, minority-, women-, and service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises.

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

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Quarterly Reports of revenue paid to CMBE and CSDVBE contractors (agents or subcontractors) as a result of any award shall be provided to the Department Purchasing Office by the Prime Contractor on a Department (or other eligible user) level.

A.30 Contractors and Subcontractors

The prospective Contractor shall not subcontract, assign, or transfer any of the work identified under this solicitation.

A.31 Conflict of Interest

The Respondent covenants that it presently has no interest in and shall not acquire any interest, direct or indirect, which would conflict in any manner of degree with the performance of the services/items required to be performed under the contract resulting from this solicitation. The selected contractor shall be required to provide written notification to the Department within (5) working days of the discovery of a potential conflict of interest. The Department shall have the authority to determine whether or not a conflict of interest exists.

A.32 Rights to Data and Copyright

Writings, publications, films, videos, technical reports, equipment, computer hardware and software, recordings, computer programs, computerized data bases, data processing programs, pictorial reproductions, maps, drawings, specifications, graphical representations, and works of similar nature (whether copyrighted or not copyrighted) (individually and collectively, "Data"), which are submitted with a response or specified to be delivered under a project contract shall be maintained by the Department and may be released as public records. Additionally any Data which is developed or produced and paid for in whole or in part by contract funds become the property of the Department except as may otherwise be provided in the contract.

A.33 Number of Copies to be Submitted

One (1) signed original, three (3) paper copies, and one (1) electronic, signed copy (on compact disc) of the response must be submitted for review by the Department. Each copy is to be bound individually. Use of legible reproductions of signed originals is authorized for all other copies of the response. If Respondent considers any portion of its response to be confidential, the Respondent shall also submit a separate Redacted Copy of its response, in hard copy and on a CD ROM, clearly titled "Redacted Copy" and as further instructed in Section A.15 herein.

A.34 Elaborate Responses

It is not necessary to prepare your response using elaborate brochures and artwork, expensive paper and bindings, or other expensive visual presentation aids. Your response should be prepared simply and in accordance with the instructions herein.

A.35 DBPR Solicitation Acknowledgement Form

The Department's Solicitation Acknowledgement Form shall be completed as instructed. Respondents are required to complete, sign and return the DBPR "Solicitation Acknowledgment Form" with their response submittal. This form must be completed and signed by a representative who is authorized to contractually bind the Respondent.

If a Respondent fails to submit a signed DBPR Solicitation Acknowledgment Form with their response, the Department reserves the right to contact the vendor by telephone for submission of this document via fax with follow up via mail. This right may be exercised when the response has met all other requirements of the solicitation.

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In the event that respondents submit a response as part of a joint venture, each member of the joint venture must complete and sign a separate Solicitation Acknowledgement Form.

A.36 Bid Cost Sheet

On the spaces provided in Attachment B, "Bid Cost Sheet," the Respondent shall provide pricing for services/items being procured under this solicitation, for the initial one-year term as well as any subsequent annual renewals authorized by this solicitation. The prices quoted shall be all-inclusive, including the Respondent's furnishing the necessary personnel, labor, utilities, parking, amenities, supplies, equipment, services, insurance, MyFloridaMarketPlace transaction fees, packaging, handling, delivery charges, shipping F.O.B. Destination and Freight Prepaid, and otherwise doing all things necessary for, or incidental to, the performance of work as defined in this solicitation. No other charges may be added to the response prices submitted to the Department. If mathematical errors are discovered on the Solicitation Cost Sheet, the Department may recalculate the figure using the UNIT COST as the basis for the recalculation, if applicable.

All prices provided in Attachment B shall be current and effective during the term of the contract. The contractor may request an increase in prices, up to 5%, for each year after the initial year of the contract, including the possible renewal periods. The request to increase/decrease the rates must be made in writing to the Department and must be supported by a detailed justification (i.e., the Consumer Price Index) which warrants the requested increase. The request must be submitted at least sixty (60) calendar days prior to the anniversary date of the contract in order for the request to be considered by the Department. The Department shall review the Contractor's written request and supporting documentation to determine whether an increase is warranted and, if so, what percentage increase (not to exceed 5% in any one year) shall be authorized by formal amendment to the contract.

Failure to complete and submit Attachment B, "Bid Cost Sheet", will result in the response being deemed non-responsive and therefore, rejected.

A.37 Qualifications

The Respondent must prove to the satisfaction of the Department that it has actively and normally been engaged in business for the services/items being procured under this solicitation for at least three (3) years of continuous operation immediately preceding the date of its response. The Respondent shall have available under its direct supervision, the necessary organization, experience, equipment and staff to properly fulfill all the conditions, requirements, and specifications required under this solicitation. The Respondent shall submit the following with its response:

1. On Attachment A, the Respondent shall provide the required information to include the Respondent's name, the signature of an authorized representative, and the title of the authorized representative. This individual must have the authority to bind the Respondent.
2. Provide a minimum of three (3) separate and verifiable clients, other than the Department, for which work similar to that specified in this solicitation has been performed. The references provided must cumulatively document at least three (3) years of similar service. These references should be available to be contacted during normal working hours. References shall be listed on Attachment A.
3. The Department will review its records to identify any contracts the Respondent has undertaken during the previous five (5) years from issuance of this solicitation with the Department where the Respondent was the primary contractor. The Department may contact the Department Contract Manager, if applicable, for two (2) contacts in order to complete the evaluation questionnaire provided in Attachment G.

Failure to provide any of the qualification/reference information, as required under this section and in the instructions on Attachment A, will result in the response being deemed non-responsive and therefore, rejected.

A.38 State Project Plan

The Respondent should submit a written plan addressing the State's four (4) objectives listed below, **to the extent applicable to the items/services covered by this solicitation**. The Department expects prospective respondents to address each objective. Objectives not addressed in the selected Respondent's response must be addressed prior to contract execution. **The State reserves the right to negotiate mutually acceptable changes with the respondent selected for award, prior to execution of the contract.**

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1. **Environmental Considerations:** The State supports and encourages initiatives to protect and preserve our environment. The Respondent shall submit as part of this plan, the Respondent's plan to support the procurement of products and materials with recycled content. The Respondent shall also provide a plan for reducing and/or handling of any hazardous waste generated by the Respondent which must comply with the provisions of rule 62-730.160, Florida Administrative Code, and applicable State and Federal laws. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of the respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of waste.
2. **Certification of Drug Free Workplace Program:** The State supports and encourages initiatives to keep the workplace of Florida's suppliers and contractors drug free. Section 287.087, Florida Statutes, provides that, where proposals which are equal with respect to price, quality, and service are received, preference shall be given to a proposal received from a respondent that certifies it has implemented a drug-free workforce program. If the Respondent has a drug-free workplace program, the Respondent shall sign and submit the "Certification of Drug Free Workplace Program" Form, attached hereto and made a part hereof as Attachment C.

3. **Products Available from the Blind or Other Handicapped (RESPECT):** The State supports and encourages the gainful employment of citizens with disabilities. Information about RESPECT and the products it offers is available at <http://www.respectofflorida.org>.

Respondents proposing the use of RESPECT as a subcontractor shall be required to provide written proof of a subcontractor agreement for this solicitation with RESPECT with their response. The written documentation shall be a one (1) page letter supplied by the subcontractor on its letterhead stationery, clearly identifying the Department Solicitation Number, the project title, and the prime contractor with whom the firm intends to subcontract.

4. **Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE):** The State supports and encourages the use of Florida Correctional work programs. Information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

Respondents proposing the use of PRIDE as a subcontractor shall be required to provide written proof of a subcontractor agreement for this solicitation with PRIDE with their response. The written documentation shall be a one (1) page letter supplied by the subcontractor on its letterhead stationery, clearly identifying the Department Solicitation Number, the project title, and the prime contractor with whom the firm intends to subcontract.

Field Code Changed

Field Code Changed

A.39 Basis of Award

1. **Price.** The lowest price shall be determined by comparing each Respondent's Grand Total Bid Cost quoted in Attachment B for the services/items requested in this solicitation. The Respondent submitting a responsive response with the lowest price shall be awarded the contract, provided the following criteria are met:
 - a. **Qualifications.** Based on the information provided as required by Section A.37 - Qualifications; if the Respondent fails to meet the qualification requirements as outlined, the Department shall disqualify the Respondent from further consideration, and the next lowest response shall be considered in accordance with the provisions of this section.
 - b. **Client References/Department Past Performance.** The Department shall contact a minimum of two (2) client references and, if applicable, the Department Contract Manager for past performance to determine the Respondent's ability to perform the requested services. The reference/Department Contract Manager will be asked the questions shown in Attachment E. The scores for all individual references (Department and non-Department) will be totaled and averaged. Failure to receive an above satisfactory or excellent performance evaluation (a score of 2.75 or above) for this average shall result in the Respondents' response being rejected, and the next lowest response shall be considered in accordance with the provisions of this section.
2. **Drug Free Workplace Certification.** In the case of a tie between two or more Respondents, the Respondents with a certified Drug Free Workplace will be given preference.

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3. In determining vendor responsibility, the Department may consider any information or evidence which comes to its attention and which reflects upon a vendor's capability to fully perform the contract requirements and/or the vendor's demonstration of the level of integrity and reliability which the Department determines to be required to assure performance of the contract.

A.40 Identical Tie Responses

In a circumstance where proposals which are equal with respect to price, quality, and service are received, the Respondent with a certified Drug-Free Workplace will be given preference.

In the event that all tied vendors submitted the Drug-Free Workplace Certification, award shall be determined by using rule 60A-1.011, F.A.C., Identical Evaluations of Responses.

A.41 Terms and Conditions *(This section supersedes Appendix A, PUR 1001, Instruction #4, Terms and Condition).*

All responses are subject to the terms of the following sections of this solicitation, which are hereby incorporated by reference in their entirety herein and which, in case of conflict, shall have the order of precedence listed:

1. Scope of Work / Bid Specifications (Section B),
2. Form of Annual Purchase Order (Section C),
3. Special Instructions for the Preparation and Submission of Responses (Section A),
4. General Conditions (PUR 1000 – Appendix B),
5. General Instructions to Respondents (PUR 1001 – Appendix A).

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

A.42 Trade Names

The product described in this ITB must be bid as specified. Alternate products that are bid will not be considered, and any response containing an alternate product will be rejected.

A.43 Visitor Pass to the Capital Commerce Center

Each visitor to the Capital Commerce Center, DBPR offices, is required to sign in at the security desk and obtain a visitor's pass. DBPR's main entrance is located in Building B, Ground Floor Lobby. Please allow enough time to obtain a visitor's pass if hand delivering your reply to the Bureau of Agency Services. The official date and time of receipt is the date and time the reply is stamped as received by the Bureau of Agency Services within the Capital Commerce Center located at 2601 Blair Stone Road, Tallahassee, Florida.

A.44 Employment of DBPR Personnel

The Respondent shall not knowingly engage, on a full or part-time basis, any personnel who are in the employment of the Department, without prior written approval of the Department.

Further, the Respondent shall not knowingly engage any former employee of the Department where such employment conflicts with the requirements of section 112.3185, Florida Statutes.

A.45 Respondent's Responsibility

It is understood and the Respondent hereby agrees to be solely responsible for obtaining all materials and determining the best methods that will be utilized to meet the intent of the specifications of this solicitation.

A.46 Accessible Electronic Information Technology

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Respondents submitting responses to this solicitation must provide electronic and information technology resources in complete compliance with the accessibility standards provided in Rule 60-8.002, Florida Administrative Code. These standards establish a minimum level of accessibility.

A.47 Definitions

- ADA: Americans with Disabilities Act of 1990, as amended.
- Department: The Department of Business and Professional Regulation (DBPR).
- Department Business Hours: Typically 8:00 A.M. through 5:00 P.M., Monday through Friday, during which time the Department conducts routine business.
- Department Non-Business Hours: Typically Department-observed holidays, weekends, and night time frames in which the Department is closed to conducting routine business.
- Department-Observed Holidays: The following holidays are currently observed by the Department. If any of these holidays fall on a Saturday, the preceding Friday is observed. If any fall on a Sunday, the following Monday is observed.
 - New Year's Day
 - Martin Luther King Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veteran's Day
 - Thanksgiving Day and the following day
 - Christmas Day
- Bid: The offer extended to the Department in response to an Invitation to Bid.
- Contract: A written agreement between the Department and the Contractor, including all purchase orders, documents, exhibits and attachments specifying services to be performed or provided by the Contractor, billing rates for these services and the manner in which the Contractor shall be compensated for these services, which shall be executed by both the Contractor and the Department.
- Contract Manager: A person who is charged with monitoring a contract through the term of the agreement and who is specifically responsible for enforcing performance of the contract terms and conditions, and maintaining all financial information, i.e., payment history, payment method, payment tracking, etc. The Department and Contractor will each appoint a Contract Manager. The Contract Manager serves as the liaison between the Department and the Contractor regarding performance issues contained in the contract.
- Contractor: The person or entity that enters into a contract to sell commodities or contractual services to the Department.
- Invoice: Vendor's itemized document stating prices and quantities of goods and/or services delivered, and sent to the Department for verification and payment.
- Premise(s): The entire Department of Business and Professional Regulation real property identified by the Department's Project Manager (or his/her designee) and any other real property that may be added to or deemed part of the contract agreement.
- Project Manager: The Department's staff member(s), manager(s), contractor(s) or consultant(s) with overall responsibility and authority to oversee the contractual services being performed or provided by the Contractor for the Department as described in the contract agreement.
- Respondent: The person or entity submitting a bid in response to an Invitation to Bid.

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- Responsible Vendor: A vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
- Responsive Bid: A response submitted by a responsive and responsible vendor that conforms in all material respects to the solicitation.
- Responsive Vendor: A vendor that has submitted a response, proposal, or reply that conforms in all material respects to the solicitation.
- State Fiscal Year: July 1st through June 30th.
- Subcontractor: A person or entity contracting to perform part or another's entire contract, upon Department approval.
- Vendor: A person or entity that sells or offers to sell commodities or contractual services.
- Vendor Bid System (VBS): The system which allows all state agencies to advertise bids and exceptional purchases on MyFlorida.com. It also permits registered vendors to receive automatic email notification of bid advertisements, addendums to bids, and exceptional purchases.
- Written Notice: Written notice is notice provided in writing and signed by an authorized representative of the Contractor. Written notice may be provided by electronic means such as email or facsimile.

A.48 Strict Enforcement

DBPR reserves the right to enforce strict compliance with any requirement of this solicitation.

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SECTION B
SCOPE OF WORK / BID SPECIFICATIONS and PURCHASE ORDER CONDITIONS

B.1 Purpose, Introduction and Background

The purpose of this Invitation to Bid (ITB) is to establish a contract pursuant to annual purchase order for an Orlando facility rental for the Florida Department of Business and Professional Regulation, Bureau of Education and Testing's ("BET's) Licensure Examination Program. Six (6) Construction exams, two (2) Geology exams and one (1) Pilot exam will be held during each of State Fiscal Year 2019 – 2020 and State Fiscal Year 2020 – 2021. Each Construction exam session and Pilot exam session will be two (2) days in duration and the Geology exam session will be one (1) day in duration, as set forth in the tentative Examination Schedule for each of State Fiscal Year 2019 – 2020 and State Fiscal Year 2020 – 2021 in Section B.3(4) herein ("Examination Schedule").

The dates and amounts set forth above for each of State Fiscal Year 2019 – 2020 and State Fiscal Year 2020 – 2021 represent good faith approximations by the Department and shall not be construed to impose any obligation by the Department to engage vendor for any certain dates or minimum number of examinations or tasks, and shall remain subject all times to direction by the Department in its sole and absolute good faith discretion pursuant to the terms and conditions of any contract and purchase order, and any authorized renewal.

Any agreement resulting from this invitation to bid shall be for an initial term of one (1) year, commencing July 1, 2019 and ending June 30, 2020. Work will be conducted pursuant to an annual purchase order, in the form of purchase order set forth in Section C herein. The agreement may be renewed pursuant to annual purchase order for one (1) additional year, from July 1, 2020 through June 30, 2021. Any renewal is contingent upon satisfactory performance by the Contractor and the availability of funds. Capitalized terms not defined herein shall have the meanings set forth in Section A.47 Special Instructions for the Preparation and Submission of Responses, all of which Section A is hereby incorporated by reference in its entirety.

The awarded vendor acknowledges that examinations administered by BET serve the public interest by helping to ensure services of regulated professions are provided by qualified individuals, and that it is in the public interest for exam candidates to be properly tested, and awarded vendor therefore agrees all facility rental services pursuant to this Scope of Work shall be provided by awarded vendor in the spirit of fostering a test-taking environment that is proper and conducive to exam candidate success.

B.2 Scope of Work

1. The awarded vendor shall provide a quiet and controlled examination room, free of external disturbances, including but not limited to music, construction noise, plumbing noise, kitchen noise, and other event sounds that may disrupt the candidate's concentration. In the event that the awarded vendor becomes aware of a condition which will interfere with the examination administration, the vendor agrees to notify the Department's Bureau of Education and Testing of the condition at least ninety (90) days in advance of the next scheduled examination date. The Department's Bureau of Education and Testing reserves the right to cancel the event if the Department's Bureau of Education and Testing recognizes a potential problem with the condition and/or event. The failure of the vendor to notify the Department's Bureau of Education and Testing staff of conditions and/or events which may interfere with the examination administration grants the Department's Bureau of Education and Testing the right to cancel the contract/purchase order within thirty (30) days of the scheduled examination without penalty or charge.
2. The awarded vendor shall provide:
 - a. An examination room sufficient in size, construction and arrangement to adequately provide for the number of candidates scheduled for an examination. Depending on area of profession and as set forth in the Examination Schedule, the estimated number of scheduled attendees ranges from seventy-five (75) to two hundred (200) candidates per exam day.
 - b. A separate room, secured by lock and key with access limited to department staff and necessary vendor staff, for storing examination materials for booklet control on exam days. Department staff shall ensure the room is secured with no access for any other activities or traffic during examination days. This room must be physically located within reasonably close proximity to the examination room as determined by the department.
 - c. Additional rooms, as needed, for the individual testing of Special Testing candidates. These rooms must be physically located within reasonably close proximity to the examination room as determined by the department.
 - d. An additional room for the purpose of scanning and grading of examination materials. This room must be physically located within reasonably close proximity to the examination room as determined by the department.

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B.3 Bid Specifications (Materials, Tasks, Timelines, and Deliverables)

1. Facility Requirements:

- a. The facility must be located in Orlando, Florida, or within a 30 mile radius to be considered.
- b. The facility shall have an examination room large enough to accommodate the scheduled candidates for the licensure examination and additional rooms for storing materials, testing of ADA candidates, and scoring of examinations as specified in Section B.2.
- c. The hours of the facility usage, including restrooms and utilities, shall include the hours from at least 5:30 a.m. through 10:00 p.m. on examination days ("Facility Usage Hours"). Some examinations may not extend over this entire time period. The awarded vendor shall allow the Department's Bureau of Education and Testing staff and proctors access to the facility at 5:30 am on examination days for materials set-up and staff meeting.
- d. The facility shall be ADA compliant and handicap accessible including handicap parking spaces, access ramps to and within the building, and handicap restrooms.
- e. The facility shall at all times be in compliance with all other federal, state and local laws, regulations, rules, codes and ordinances governing commercial facilities, including without limitation those affecting restrooms, drinking fountains, sanitation requirements and safety, and specifically accommodating anticipated capacity of over two hundred (200) persons at any given examination (exam candidates plus Department staff).
- f. The facility shall be a clean and functionally sound structure, free of environmental distractions and hazards, including but not limited to leaks, floods and debris.
- g. The facility shall have working heat/air conditioning, maintained during Facility Usage Hours at a consistent temperature of seventy-two (72) to seventy-five (75) degrees Fahrenheit.
- h. The facility shall have adequate lighting for all candidates to see efficiently to complete the licensure examination. Chandelier lighting alone is not acceptable.
- i. The facility shall have adequate parking for the Department's Bureau of Education and Testing staff and up to two hundred (200) examination candidates as close to the testing area as possible. Parking lot lighting shall be provided after sunset and before sunrise, and specifically prior to the Department's Bureau of Education and Testing staff arriving at the facility by 5:30 a.m.
- j. The facility shall have a backup generator, or another power source available in case of power outages sufficient for examinations to be continued as scheduled without interruption.
- k. The facility shall have available for use during Facility Usage Hours a podium, microphone, and respective sound equipment on examination days, sufficient for all exam candidates within testing areas to hear testing instructions.
- l. The facility shall have vending facilities in good working order and sufficiently stocked to accommodate the typical beverage and snacking needs of anticipated capacity up to two hundred (200) persons during any examination period.
- m. The facility shall designate at least one (1) staff member who shall remain on premises and be available at all times during Facility Usage Hours to respond to needs and requests from department staff, including, but not limited to, logistical, room setup and security issues.

2. Examination Room Set-Up:

- a. The examination room shall be set up in the classroom style configuration with sufficient seating to accommodate the scheduled number of candidates. The estimated number of candidates shall be provided to

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the awarded vendor thirty (30) days prior to the examination date. The actual number of candidates will be provided two (2) weeks prior to the examination.

- b. The examination room shall accommodate the number of candidates scheduled for examination, from seventy-five (75) to two hundred (200) candidates as set forth in the Examination Schedule. Depending on the actual candidate count, the examination may be relocated to another size-appropriate room with the same set-up requirements.
- c. There shall be two (2) candidates per table, with a minimum perimeter space of thirty inches (30") on each side, with sufficient seating room for candidate. One (1) proctor table shall be set-up for every twelve (12) candidate tables. Placement and location of proctor tables may vary based upon site specifications and shall be pre-approved by the department in advance of each administration.
- d. Maximum capacity shall accommodate one hundred (100) tables and two hundred (200) chairs in the examination room. A total of eight additional tables and twenty-five (25) additional chairs are required as follows: Two additional tables and four additional chairs are required to be placed outside the examination room to accommodate candidate check-in. Three additional tables and six additional chairs are required to be placed in the booklet control room. One additional table and one additional chair is required to be placed in the Special Testing rooms to accommodate the total number of Special Testing candidates provided in the candidate counts as specified in section 2.a., above. One additional table and two additional chairs are required to be placed outside of each restroom located in or near the examination room. Four additional tables and twelve additional chairs are required to be placed inside the scanner room.
- e. For purposes of site configuration, a "station" is a grouping consisting of one proctor table, two proctor chairs, and as many as 15 candidate tables and 30 candidate chairs. The awarded vendor is required to send a diagram of a station. Attachment I shows an example of a station. The awarded vendor is responsible for set-up and clean-up of the requested number of tables and chairs. The vendor shall set up approximately 5 - 7 stations per examination session. The actual number of stations may vary depending on the number of candidates scheduled. The tables and chairs in the examination room shall be set up by 5:30 am. The vendor must have staff available on the morning of the examination day to modify set-up configurations that the department determines do not meet specifications.
- f. Tables and chairs shall be set according to the floor plan agreed to in advance by the parties, at such times as the Department advises the awarded vendor of the estimated and actual examination candidate counts pursuant to Section B.8 herein. Examination candidate tables shall be eight feet (8') in length and at least twenty-four inches (24") in width. Proctor tables shall be six feet (6') or eight feet (8') in length and shall be at least twenty-four inches (24") in width. Tables shall be in good working condition stable and even and free of creaks, with a smooth writing surface free from scratches, cuts, gouges, peeling, sharp edges or broken parts, and shall be clean and free of staples, pencil and eraser shavings, food and beverage spills, and other debris and litter. Chairs shall include backs and be in good working condition, stable and even and free of creaks, and shall be clean and reasonably comfortable with padding to accommodate a full day of seating; folding chairs without seat padding and back padding are not acceptable.

3. Other Requirements Acknowledged by Awarded Vendor:

- a. All overhead expenses (i.e.: room rental, utilities, etc.), cleaning charges, table and chair rental, audio visual equipment, and any other expenses shall be included in the overall facility rental cost.
- b. The examination dates listed in Section B.3.(4.), Examination Schedule, are subject to change including the deletion or addition of examinations and dates. Said deletions, additions, or changes shall be acceptable without penalty if issued from the Department's Bureau of Education and Testing to the vendor at least thirty (30) days prior to the affected date of change. Email notices and fax letters shall be acceptable.
- c. All materials and events are confidential; therefore, broadcasts, taping, recording, or unauthorized personnel shall not be permitted in the testing area. General public shall be excluded from examination rooms within the facility. Only the Department's Bureau of Education and Testing staff is allowed in secured testing areas.

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- d. All additional charges for any service or arrangement must be approved and authorized by the Department's Bureau of Education and Testing's Contract Manager or designated on-site department supervisor in writing prior to providing additional charge services or arrangements. No service or arrangement for which an additional charge will occur may be authorized on site without the aforementioned written approval. If any candidate requests special services, including but not limited to ADA, food, beverage, parking, paging, or any other services that are unrelated to the Department's Bureau of Education and Testing requested examination room requirements/standards, such candidate shall be responsible for payment of any charge related to the special services, and vendor shall indemnify and hold harmless BET and the Department against any claims or liabilities for same.
- e. The facility shall adopt, during Facility Usage Hours, facility usage rules such as those pertaining to eating, drinking, smoking, talking and the like, as BET shall prescribe, consistent with BET's testing policies and all applicable laws, regulations and codes.
- f. For hotel facilities, the Department's Bureau of Education and Testing cannot guarantee any sleeping rooms utilized for staff members or candidates for the examinations. The vendor's response shall not include any requirement to guarantee sleeping rooms.
- g. The Department of Business and Professional Regulation is a tax-immune sovereign and is exempt for the payment of all property, sales, use, and excise taxes; the department's tax exemption number is 85-8012631595C-1 effective until April 30, 2021.

4. Examination Schedule (tentative dates subject to further notice requirements of Section B.8 herein):

Fiscal Year 2019 – 2020

Examination	Date	Estimated Number of Candidates
Construction	February 3 – 4, 2020	Up to 200
Pilots/Geology	March 18-19-20, 2020	Up to 75
Construction	June 3 - 4 , 2020	Up to 200

Fiscal Year 2020 – 2021

Examination	Date	Estimated Number of Candidates
Construction	February 9 – 10, 2021	Up to 200
Pilots/Geology	March 17-18-19, 2021	Up to 75
Construction	June 8-9, 2021	Up to 200

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B.4 Standards of Performance

All Services shall be performed in a manner consistent with the requirements of this contract and in a manner that is skillful and workmanlike. The awarded vendor and any of their employees, while performing work for the State, shall maintain a professional work ethic.

In the event the awarded vendor fails to perform any component of the services to Department's reasonable satisfaction and such services are not performed in a manner reasonably consistent with the requirements of the contract the Department shall then have the option of immediately terminating the contract as set forth in Section B.9.

B.5 Method of Payment

On or before the fifteenth (15th) day of each month during the term, awarded vendor shall deliver to the Department an invoice for all services rendered during the previous month in accordance with the submitted Bid Cost Sheet.

Invoices shall contain the contract number or purchase order number, and the appropriate Federal Identification Number (FEID). The State may require any other information from the awarded vendor that the State deems necessary to verify that the goods and or services have been rendered under the contract.

Awarded vendor shall provide complete pricing information, as detailed above, for all items, per Contract year and including each renewal year. All requests for compensation for services or expenses must be submitted in detail sufficient for a pre-audit and post-audit in accordance with subsection 287.058(1)(a), Florida Statutes.

Awarded vendor will submit with the invoice all documentation to support any permitted reimbursements to the Department for review.

B.6 Awarded Vendor Responsibilities

- Pursuant to s. 20.055(5), F.S., every state officer, employee, agency, special district, board, commission, contractor, and subcontractor shall cooperate with the Inspector General's office in any investigation, audit, inspection, review, or hearing pursuant to this section.

B.7 Information Release

The Department does not endorse any vendor, commodity or service. No public disclosure or news release pertaining to the Contract shall be made without the prior written approval of the Department. Awarded vendor is prohibited from disclosing or using contract information, examination information, sales values/volumes information and/or DBPR customers or examination candidates' information, all of which information shall be deemed confidential, for any purpose, including without limitation in sales brochures or other promotions, including press releases, unless prior written approval is obtained from the Department.

Awarded vendor must notify the Department, both by facsimile and first class mail, within one (1) business day from receipt of all request(s) for public records, as a public record is defined in section 119.011, Florida Statutes. Contractor shall be responsible for responding to all public records requests in accordance with Chapter 119 of the Florida Statutes for records made or received by awarded vendor in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), Florida Statutes. Public records requests shall be faxed and mailed to:

Office of the General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1040
Fax: (850) 717-1242

Awarded vendor shall notify the Department verbally within twenty-four (24) chronological hours and in writing within seventy-two (72) chronological hours if any data in awarded vendor's possession related to the contract is subpoenaed or improperly used, copied, or removed (except in the ordinary course of business) by anyone except an authorized representative of the Department. Awarded vendor shall cooperate with the Department in taking all steps as the Department deems advisable to prevent misuse, regain possession, and/or otherwise protect the State's rights and the data subject's privacy.

All of the confidentiality and public records requirements of this Section B.7 shall survive any termination or expiration of contract indefinitely.

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B.8 Department Responsibilities

The Department shall advise the awarded vendor of the estimated candidate counts for each examination at least thirty (30) days prior to the examination. The actual candidate count will be provided to the awarded vendor two (2) weeks prior to the examination. The Department will advise the awarded vendor of any issues experienced with the facility immediately or within fifteen (15) business days following each examination.

B.9 Awarded vendor's Responsibilities upon Termination

After receipt by vendor from Department of a Notice of Termination pursuant to Sections 22 or 23 of Appendix B, and except as otherwise specified by the Department, the awarded vendor shall:

- Stop work under this contract on the date and to the extent specified in the notice.
- Complete performance of such part of the work as shall not have been terminated by the Department.
- Take such action as may be necessary, or as the Department may specify, to protect and preserve any property which is in the possession of the awarded vendor and in which the Department has or may acquire an interest.
- Upon the effective date of termination of the contract, the awarded vendor shall transfer, assign, and make available to the Department all property and materials belonging to the Department. No extra compensation will be paid to the awarded vendor for its services in connection with such transfer or assignment.

B.10 Financial Consequences for Failure to Timely and Satisfactorily Perform

Failure to complete all deliverables in accordance with the requirements of the Contract, and in particular, as specified in Section B.6 Awarded Vendor Responsibilities and Section B.3 Bid Specifications (Materials, Tasks, Timelines and Deliverables), of this Scope of Work, will result in substantial injury to the Department and damages arising from such failure cannot be calculated with any degree of certainty. Therefore, it is hereby agreed that if the services/items are not timely and satisfactorily performed, and the parties agree to a corrective action plan, but the awarded vendor then fails to comply with the approved corrective action plan, the awarded vendor shall be assessed a financial pre-estimate of loss equal to ten percent (10%) of the monthly contract cost for each calendar day the awarded vendor fails to perform according to the terms and conditions of the Contract.

This provision for financial consequences shall in no manner affect the Department's right to terminate the Contract as provided elsewhere in the Department's Core Contract or purchase order.

If the awarded vendor has only one instance of failure to timely and satisfactorily comply with an approved corrective action plan, the Department, in its complete discretion, may grant a one-time waiver upon the awarded vendor coming into compliance with the corrective action plan.

B.11 Liquidated Damages upon Contract Termination

The Department is entitled to completion of the services/items within the schedules fixed in Section B.3 and B.6 hereof or within such further time, if any, as may be allowed in accordance with the provisions of the Contract. In the event of termination of the Contract by the Department for cause pursuant to Section 23 of Appendix B, the awarded vendor shall be liable to the Department for One Thousand Dollars (\$1,000 dollars) for each calendar day after termination, up to sixty (60) days, for the Department's expenses for additional managerial and administrative services required to complete or obtain the services/items from another vendor. Liquidated damages for this period of time, is in addition to the financial consequences assessed (as provided for in Section B.10) prior to termination.

B.12 Notification of Instances of Fraud

Instances of awarded vendor operational fraud or criminal activities shall be reported to the Department's Contract Manager within twenty-four (24) chronological hours.

B.13 Confidentiality and Safeguarding Information

As further set forth in Section B.7 herein, the awarded vendor may have access to confidential information during the course of performing these services. The awarded vendor must implement procedures to ensure protection and confidentiality of data, files and records involved with the contract. All awarded vendor personnel assigned to this project must sign a confidentiality statement which will be provided by the Department. The awarded vendor's confidentiality procedures must be approved by the Department and must comply with all State and

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Federal confidentiality requirements, including but not limited to sections 443.171(5) and 443.1715(1), Florida Statutes, and 20 C.F.R. part 603 and all awarded vendor employees will be appropriately screened in a manner comparable to sections 435.03 and 435.04, Florida Statutes.

B.14 Change of Ownership

If a change of ownership of the company is anticipated within twelve (12) months at any time during the term of the Contract, the awarded vendor must immediately notify the Department and describe the circumstances of such change and indicate when the change is likely to occur.

B.15 Ownership and Intellectual Property Rights

All rights, title, and interest, including copyright interests and any other intellectual property, in and to the work developed or produced under the contract, alone or in combination with the Department and/or its employees, under the contract shall be the property of the Department. The awarded vendor agrees that any contribution by the awarded vendor or its employees to the creation of such works, including all copyright interest therein, shall be considered works made for hire by the awarded vendor for the Department and that such works shall, upon their creation, be owned exclusively by the Department. To the extent that any such works may not be considered works made for hire for the Department under applicable law, the awarded vendor agrees to assign and, upon their creation, automatically assigns to the Department the ownership of such works, including copyright interests and any other intellectual property therein, without the necessity of any further consideration.

B.16 Force Majeure

Neither Party shall be liable to the other for any delay or failure to perform under this contract if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents 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 Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. The Department, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify the Contractor of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Department. The Contractor shall not be entitled to an increase in the contract price or payment of any kind from the Department 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 Department determines, in its sole discretion, that the delay will significantly impair the value of this contract to the Department or the State, in which case, the Department may do any or all of the following: (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the Department with respect to products or services subjected to allocation; (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 or services that are the subject of the delay, which purchases may be deducted from this contract quantity; or (3) terminate this contract in whole or in part.

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SECTION C
(Department Form of Annual Purchase Order)

Scope of Work
Bureau of Education and Testing
July 1, 2019 – June 30, 2020

C.1 Introduction

This annual purchase order is entered into in connection with that certain Invitation to Bid, ITB-DBPR-04-19/20, issued on [ISSUED DATE] and awarded on [AWARDED DATE] ("ITB"), all of the terms and conditions of which are hereby incorporated herein by reference in their entirety, pursuant to which awarded vendor shall provide an Orlando facility rental for the Florida Department of Business and Professional Regulation, Bureau of Education and Testing's Licensure Examination Program.

C.2 Term / Annual Purchase Order

This first annual purchase order shall begin on July 1, 2019 and expire June 30, 2020, and be renewable for one (1) additional year, subject to all of the terms and conditions of the ITB.

C.3 Scope of Work / Proposal Specifications and Purchase Order Conditions

ITB Section B Scope of Work / Bid Specifications and Purchase Order Conditions is hereby incorporated herein by reference in its entirety.

C.4 Contract Manager

The Contract Manager for this purchase order is Melody Porter, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399.

AWARDED VENDOR:

Orlando Facility Rental Name and Address (Street, City, Zip)

Typed Name of Authorized Representative

Signature of Authorized Representative

Title of Authorized Representative

Telephone Number

Name of Company

Fax Number

Address of Company

Email Address

City, State, Zip of Company

Date

FEID Number

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**ATTACHMENT A
REFERENCE FORM**

Respondent's Name: _____

The Respondent must list a **minimum of three (3)** separate and verifiable clients, other than the Department, **for which work similar to that specified in this solicitation has been performed**. The references provided must cumulatively document at least three (3) years of similar service. Any information not submitted on this attachment shall not be considered. If additional references are necessary in order to substantiate at least three years of service, Respondent must submit additional copies of this page. The same client may not be listed as more than one (1) reference (for example, if the Respondent has completed one project for the Florida Department of Transportation – District One and one project for the Florida Department of Transportation – District Two, only one (1) of the projects may be listed because the client, the Florida Department of Transportation, is the same). The Department shall choose two (2) clients at its discretion to contact. Confidential clients shall not be included. **DO NOT LIST DEPARTMENT WORK ON THIS FORM**. (Please provide at least two (2) Contact Names for each client. If there is only one Contact Name, the respondent should justify why there weren't any additional contacts within the client organization, eg., "respondent worked exclusively with John Doe.")

Company Name:	
Address:	
Contact Name:	
Alternate Contact Name:	
Phone:	
Email:	
Description of Work:	
Service Dates:	To
Approximate Contract Value:	\$

Company Name:	
Address:	
Contact Name:	
Alternate Contact Name:	
Phone:	
Email:	
Description of Work:	
Service Dates:	To
Approximate Contract Value:	\$

Company Name:	
Address:	
Contact Name:	
Alternate Contact Name:	
Phone:	
Email:	
Description of Work:	
Service Dates:	To
Approximate Contract Value:	\$

*Authorized Representative's Signature

*Typed Name and Title of Authorized Representative

*This individual must have the authority to bind the respondent

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ATTACHMENT B
 BID COST SHEET – Page 1 of 2

Fiscal Year 2019 – 2020

Profession	Tentative Exam Date	Estimated Number of Candidates	Total Cost for Exam Site Rental	Date Available
Construction	February 3 – 4, 2020	0 – 200	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Pilots/Geology	March 18-19-20, 2020	0 – 75	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Construction	June 3-4, 2020	0 – 200	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
TOTAL PRICE FISCAL YEAR 2019 – 2020			\$ _____	

Fiscal Year 2020 – 2021

Profession	Tentative Exam Date	Estimated Number of Candidates	Total Cost for Exam Site Rental	Date Available
Construction	February 9 – 10, 2021	0 – 200	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Pilots/Geology	March 17-18-19, 2021	0 – 75	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Construction	June 8 – 9, 2021	0 – 200	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
TOTAL PRICE FISCAL YEAR 2020 – 2021			\$ _____	
TOTAL PRICE FISCAL YEAR 2019 – 2020 (from Page 1 Bid Cost Sheet)			\$ _____	
TOTAL BID PRICE			\$ _____	

[SIGNATURE NEXT PAGE]

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ATTACHMENT B
BID COST SHEET – Page 2 of 2

TOTAL BID PRICE (from Page 2 Bid Cost Sheet)

Typed Name of Authorized Representative

Signature of Authorized Representative

Title of Authorized Representative

Telephone Number

Name of Company

Fax Number

Address of Company

Email Address

City, State, Zip of Company

Date

FEID Number

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ATTACHMENT C
DRUG FREE WORKPLACE CERTIFICATION

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

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

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

***Authorized Representative's Signature**

***Typed Name and Title of Authorized Representative**

***This individual must have the authority to bind the respondent.**

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**ATTACHMENT D
DISCLOSURE STATEMENT
CONFLICT OF INTEREST DISCLOSURE**

The award hereunder is subject to the provisions of Chapter 112, Florida Statutes. Respondents must disclose with their responses whether any officer, director, employee or agent is also an officer or an employee of the Department, the State of Florida, or any of its Agencies. All Respondents must disclose the name of any state officer or employee who owns, directly or indirectly, an interest of more than five percent (5%) in the Respondent's firm or any of its branches or affiliates. All Respondents must also disclose the name of any employee, agent, lobbyist, previous employee of the Department, or other person, who has received or will receive compensation of any kind to seek to influence the actions of the Department in connection with this procurement, or who has registered or is required to register under section 112.3215, Florida Statutes in connection with this procurement.

The following persons are officers, directors, employees, or agents of Respondent's firm **and** state officers or employees:

_____	_____
_____	_____

The following persons are state officers or employees who own, directly or indirectly, more than a 5% interest in the Respondent's firm:

_____	_____
_____	_____

The following persons have sought to influence the Department in this procurement on behalf of the Respondent:

_____	_____
_____	_____

The Respondent has no interest to disclose and has had no person seeking to influence the Department in connection with this procurement.

***Authorized Representative's Signature**

***Typed Name and Title of Authorized Representative**

***This individual must have the authority to bind the respondent.**

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**ATTACHMENT E
EVALUATION OF PAST PERFORMANCE**

Respondent's Name _____

Respondent's Reference Name _____

Person Interviewed _____

Interviewed By _____

Date of Interview _____

The following questions will be asked of the client reference chosen at the discretion of the Department:

1. Briefly describe the work the contractor performed for your company.

2. How well did the contractor adhere to the agreed upon schedule?

Excellent = 4 points; Above Satisfactory = 3 points, Satisfactory = 2 points; Fair = 1 point; Poor = 0 points. _____

3. How would you rate the contractor's quality of work?

Excellent = 4 points; Above Satisfactory = 3 points, Satisfactory = 2 points; Fair = 1 point; Poor = 0 points. _____

4. How would you rate the contractor's use of adequate personnel in quantity, experience and profession?

Excellent = 4 points; Above Satisfactory = 3 points, Satisfactory = 2 points; Fair = 1 point; Poor = 0 points. _____

5. How would you rate the contractor's use of appropriate equipment and methods?

Excellent = 4 points; Above Satisfactory = 3 points, Satisfactory = 2 points; Fair = 1 point; Poor = 0 points. _____

Score _____

Divide by 4
= Average Score _____

Reference's Signature _____ Date _____

**ATTACHMENT F
CERTIFICATIONS AND ASSURANCES**

The Department will not award this contract unless the Contractor completes the CERTIFICATIONS AND ASSURANCES contained in this Attachment. In performance of this contract, the Contractor provides the following certifications and assurances:

- A. Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transaction (29 CFR Part 95 and 45 CFR Part 74)**
- B. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37 and 45 CFR Part 80)**
- C. Certification Regarding Public Entity Crimes, Section 287.133, F.S.**
- D. Association of Community Organizations for Reform Now (ACORN) Funding Restrictions Assurance (Pub. L. 111-117)**
- E. Certification Regarding Scrutinized Companies Lists and Business Operations in Cuba or Syria, Section 287.135, F.S.**

A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION (29 CFR Part 95 and 45 CFR Part 74).

The undersigned Contractor certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.2. of this certification; and/or
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall attach an explanation to this contract.

B. NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE (29 CFR PART 37 AND 45 CFR PART 80).

As a condition of this contract, the Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Investment Act of 1998 (WIA), (Pub. L. 105-220), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80), to the end

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that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.

3. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 84), to the end that, in accordance with Section 504 of that Act, and the Regulation, no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.
4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.
5. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education program or activity for which the Applicant receives Federal financial assistance from the Department.
6. The American with Disabilities Act of 1990 (Pub. L. 101-336), prohibits discrimination in all employment practices, including, job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities, and;

The Contractor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the Contractor's operation of the WIA Title I – financially assisted program or activity, and to all agreements the Contractor makes to carry out the WIA Title I – financially assisted program or activity. The Contractor understands that the department and the United States have the right to seek judicial enforcement of the assurance.

C. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES, SECTION 287.133, F.S.

The Contractor hereby certifies that neither it, nor any person or affiliate of the Contractor, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list.

The Contractor understands and agrees that it is required to inform the Department immediately upon any change of circumstances regarding this status.

D. ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) FUNDING RESTRICTIONS ASSURANCE (PUB. L. 111-117).

As a condition of this contract, the Contractor assures that it will comply fully with the federal funding restrictions pertaining to ACORN and its subsidiaries per the Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117). The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117. Note: As of June 20, 2011, this matter is in litigation in the District Court for the Eastern District of New York.

The Contractor shall require that language of this assurance be included in the documents for all subcontracts at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients and contractors shall provide this assurance accordingly.

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E. CERTIFICATION REGARDING SCRUTINIZED COMPANIES LISTS AND BUSINESS OPERATIONS IN CUBA OR SYRIA, SECTION 287.135, F.S.

If this contract is in the amount of \$1 million or more, in accordance with the requirements of section 287.135, F.S., the Contractor hereby certifies that it is not listed on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

In executing this contract in any amount, the Contractor hereby certifies that it is not listed on the Scrutinized Companies that Boycott Israel List created pursuant to section 215.473(2)(a), F.S., and is not engaged in a Boycott of Israel.

These lists are created pursuant to section 215.473, F.S.

The Contractor understands that pursuant to section 287.135(3)(a)4., F.S., the submission of a false certification, or if a Contractor is found to have been placed on any of the Scrutinized Companies Lists, may subject the Contractor to civil penalties, attorney's fees and/or costs, and immediate contract termination.

The preemption of any ordinance or rule of any agency or local governmental entity involving public contracts for goods and services applies to contracts of \$1 million dollars or more with a company engaged in scrutinized business operations; and contracts of any amount with a company placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall attach an explanation to this contract.

By signing below, the Contractor certifies the representations outlined in parts A through E above are true and correct.

(Signature and Title of Authorized Representative)

Contractor Date

(Street)

(City, State, ZIP Code)

- **End of Attachment F** -

**ATTACHMENT G
AFFIDAVIT - NOTICE OF TRADE SECRET**

I, _____ [Name of Affiant], the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury, the following:

1. I am an authorized representative of _____ [Contractor Name], and I am duly empowered and authorized to certify under oath to the truth of the statements contained in this affidavit.
2. Based upon our review/determination of all contract documents for any trade secret information meeting the statutory definition provided in subsection 812.081(1)(c), F.S., there are documents or information claimed to be trade secrets under Florida law pertaining to our entities response to the formal solicitation and related materials in _____ [DBPR Contract Number]. YES ___ or NO___ (Check one)

Executed this _____ day of _____, 20____, in _____, _____.

[Name of Affiant]

[Title of Affiant]

Notary Public

My commission expires: _____

AFTER CONTRACT EXECUTION

3. Upon receipt of the fully executed contract _____ [DBPR Contract Number] and if in the initial submission of this affidavit to the Department the Contractor indicated a YES response to Section 2 above, the Contractor shall complete this Section 3 and resubmit this affidavit accompanied by a redacted copy of this contract to the Department within three (3) business days of receipt of the fully executed contract. The Contractor states that:

All documents or information claimed to be trade secrets under Florida law have been redacted in the electronic copy of the response to the formal solicitation and related materials in _____ [DBPR Contract Number] provided to the Department of Business and Professional regulation under cover letter dated _____, 20____. Further, _____ [Contractor Name]:

- a. Considers the redacted information to be trade secret that has value and provides an advantage or opportunity to obtain an advantage over those who do not know or use it.
- b. Has taken measures to prevent the disclosure of the redacted trade secret information to anyone other than those who have been selected to have access for limited purposes, and such measures continue to be taken.
- c. States that the redacted trade secret information is not, and has not been, reasonably obtainable, without consent, by other persons by use of legitimate means.
- d. States that the redacted trade secret information is not publicly available elsewhere.

Executed this _____ day of _____, 20____, in _____, _____.

[Name of Affiant]

[Title of Affiant]

Notary Public

My commission expires: _____

- End of Attachment G -

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**ATTACHMENT H
SOLICITATION RESPONSE CHECKLIST**

To ensure that your response can be accepted, please be sure the following items are completed and enclosed. This checklist (Attachment H) is provided merely for the convenience of the Respondent and may not be relied upon in lieu of the instructions or requirements of this solicitation.

Check off each of the following:

- ___ 1. The DBPR Solicitation Acknowledgement Form has been completed, manually signed, and enclosed in the original response. If a Respondent fails to submit a completed DBPR Solicitation Acknowledgement Form with their response, the Department reserves the right to contact the Respondent by telephone for submission of this document via fax with follow up via mail. The right shall be exercised when the Respondent has met all other requirements of the response.

In the event that Respondents submit a response as a joint venture, each member of the joint venture must complete and sign a separate DBPR Solicitation Acknowledgement Form.

- ___ 2. The Reference Form (Attachment A) has been completed with three references as required in solicitation and enclosed in the response.
- ___ 3. The Bid Cost Sheet (Attachment B) has been completed, reviewed for accuracy, signed by authorized representative, and enclosed in the response. The authorized representative must have the authority to bind the Respondent.
- ___ 4. The Drug Free Workplace Certification (Attachment C), Disclosure Form (Attachment D), Certifications and Assurances Form (Attachment F) and Affidavit – Notice of Trade Secret Form (Attachment G) have been read, completed, signed, and enclosed in the original response, if applicable.
- ___ 5. The Certified Minority Business Enterprise Certificate (CMBE) has been enclosed in the response, if applicable.
- ___ 6. The Respondent's response addresses the State's four (4) objective State Project Plans to support, to the extent applicable to the items/services covered by this solicitation: Environmental Considerations, Drug Free Workplace, Use of Respect; and Use of PRIDE.
- ___ 7. The Scope of Work, Section B has been thoroughly reviewed for compliance to the solicitation requirements.
- ___ 8. The www.myflorida.com website has been checked and any Addenda posted have been completed, signed, and enclosed in the original response.
- ___ 9. The original response must be received, at the location specified, prior to the Response Opening Date and Time designated in the Invitation to Bid Document.
- ___ 10. One (1) original signed and sealed response package marked "Original", three (3) paper copies of the signed original marked "Copy", one (1) electronic copy of the signed and sealed response package (on compact disc), and one (1) original, signed **Redacted** sealed response package electronic copy (on compact disc) must be submitted to the Department in accordance with Section B.6.
- ___ 11. On the lower left hand corner of the envelope transmitting your original response, write in the following information:

Solicitation Number: ITB-DBPR-04-19/20

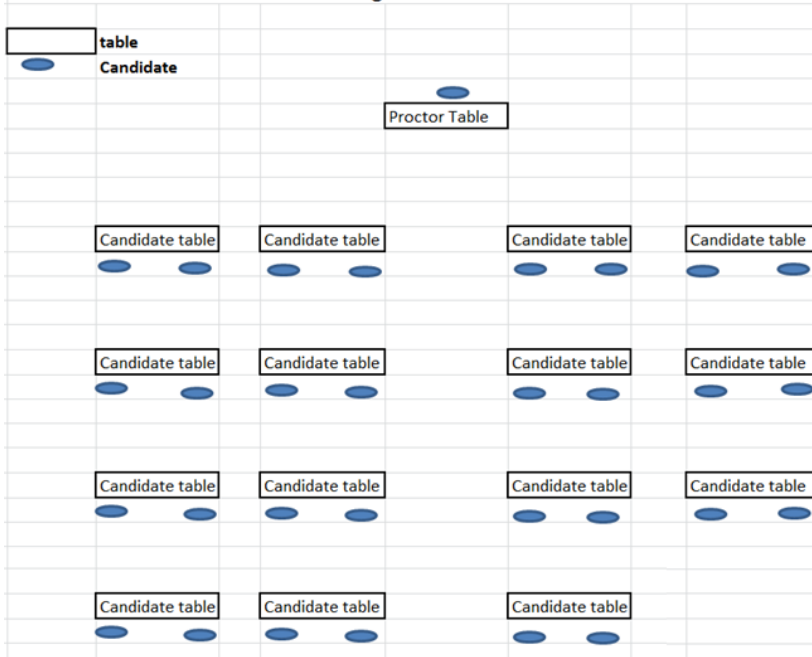
Title: Orlando Facility Rental for Licensure Examinations

Response Opening Date & Time: 10/09/19 at 3:00 PM

Field Code Changed

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**Attachment I
Diagram of a "Section"**



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APPENDIX A

PUR 1001 – GENERAL INSTRUCTIONS TO RESPONDENTS

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

NOTE: This section is superseded by a condition in Section A. Electronic submission of proposals/bids is not required and will not be accepted.
4. **Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:
 - Technical Specifications,
 - Special Conditions,
 - Instructions to Respondents (PUR 1001),
 - General Conditions (PUR 1000), and
 - Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response. **NOTE: This section is superseded by a condition in Section A.**
5. **Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions. **NOTE: This section is superseded by a condition in Section A.**
6. **Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.
7. **Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:
 - submitting a bid on a contract to provide any goods or services to a public entity;
 - submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
 - submitting bids on leases of real property to a public entity;
 - being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
 - transacting business with any public entity in excess of the Category Two threshold amount (\$35,000) provided in section 287.017 of the Florida Statutes.
8. **Discriminatory Vendors.** An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

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

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

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
 - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

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

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

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

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12. **Public Opening.** Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD). **NOTE: This section is superseded by a condition in Section A.**
13. **Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at <http://vbs.myflorida.com>. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone. **NOTE: This section is superseded by a condition in Section A.**
14. **Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected. **NOTE: This section is superseded by a condition in Section A.**
15. **Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for contract award. Failure to provide requested information may result in rejection of the response.
16. **Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.
17. **Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the contract is effective.
18. **Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.
19. **Public Records.** Article 1, section 24, Florida Constitution, guarantees every person access to public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.
20. **Protests.** Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.
- Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.
- Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."
- Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."
21. **Limitation on Vendor Contact with Agency During Solicitation Period.** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

(PUR 1001 (10/06) – 60A-1.002(7), F.A.C.)

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APPENDIX B

PUR 1000 – GENERAL CONTRACT CONDITIONS

1. **Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
 - (a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the contract will be the Customer and Contractor.
 - (b) "Customer" means the State agency or other entity 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 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, 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(14) and (15) of the Florida Statutes. **NOTE: This section is superseded by a condition in Section A, only if the contract award is equal to or greater than \$65,000.**
3. **Product Version.** Purchase orders shall be deemed to reference a manufacturer's most recently released 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.

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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 re-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, 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) 413-5516 Monday

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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://djis.dos.state.fl.us/recordsmgmt/scheduling.cfm>). 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.

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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 contracts term to be considered timely. The Contractor is obligated 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 term 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 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.

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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 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 performance of services shall not exceed the expiration date 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 State, 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.

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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. **NOTE: This section is superseded by a condition in Section A.**
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(6), 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.pride-enterprises.org/>.
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.

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

(PUR 1000 (10/06) – 60A-1.002(7),F.A.C.)

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