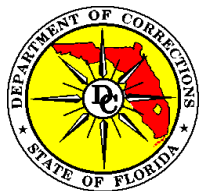


SUBMIT BIDS TO:  
 DEPARTMENT OF CORRECTIONS  
 BUREAU OF PROCUREMENT & SUPPLY  
 2601 BLAIR STONE ROAD  
 TALLAHASSEE, FLORIDA 32399-2500



STATE OF FLORIDA  
 DEPARTMENT OF CORRECTIONS  
**INVITATION TO BID**  
 Bidder Acknowledgement for an  
 AGENCY TERM CONTRACT

Telephone Number: (850) 410-4056

Page 1 of 25 Pages		BIDS WILL BE OPENED January 4, 2011 @ 2:00 p.m.		BID NO. 10-DC-8235	
AGENCY RELEASE DATE: November 29, 2010		BID TITLE DISPOSABLE CUPS, TABLEWARE, DINNERWARE & RELATED ITEMS		COMMODITY CODE: 640-670, 640-490, 640-130 & 640-350	
FEDERAL TAX ID NUMBER:		DELIVERY DATE WILL BE		DAYS after receipt of Purchase Order	
VENDOR NAME:		REASON FOR NO BID:			
VENDOR MAILING ADDRESS:		POSTING OF BID TABULATIONS Bid tabulations with recommended awards will be posted for review by interested parties on the Department of Management Services Vendor Bid System and will remain posted for a period of 72 hours. Failure to file a protest within the time prescribed in Section 120.57(3), 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.			
CITY – STATE – ZIP					
PHONE: ( ) ( )		TOLL FREE: ( ) ( )		AUTHORIZED SIGNATURE (manual)	
		FAX: ( ) ( )			
I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid 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 bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements of the Invitation to Bid, including but not limited to, certification requirements. In submitting a bid to the Department of Corrections, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the Department of Corrections 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 Department of Corrections. At the States discretion, such assignment shall be made and become effective at the time the agency tenders final payment to the bidder.				AUTHORIZED SIGNATURE & TITLE (printed or typed)	

**GENERAL CONDITIONS**

**SEALED BIDS:** All price sheets and this form must be executed and submitted in a sealed envelope.

- EXECUTION OF BID:** Bid must contain a manual signature of vendor's authorized representative in the space provided above. Bid must be typed or printed in ink. Use of erasable ink or pencil is not permitted. All corrections made by bidder to his bid price must be initialed.
- NO BID:** If not submitting a bid, respond by returning only this bidder acknowledgment form, marking it "NO BID" and explain the reason in the space provided above.
- BID OPENING:** Sealed bids must be received prior to the bid opening date and time. Copies of bid tabulations will not be provided at the bid opening. A bid may not be altered after opening of the bids. Bid files may be examined during normal working hours by appointment only and pursuant to Chapter 119.071, F.S.
- TAXES:** The State of Florida does not pay Federal Excise and Sales taxes on direct purchases of tangible personal property. Tax exemption number/certificate will be provided upon request. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvement of state owned real property as defined in Chapter 192, F.S.
- CASH DISCOUNTS:** Cash discounts for prompt payment shall not be considered in determining the lowest net cost for bid evaluation purposes.
- MISTAKES:** Bidders are expected to examine the specifications, delivery schedule, bid prices, and all instructions pertaining to supplies and services. Failure to do so will be at bidder's risk. In case of mistake(s) in extension(s), the unit price will govern and extensions will be corrected and initialed by the department's procurement official before final tabulations are posted. All corrections made by bidder to his unit bid price(s), including corrections made with white out, must be initialed.
- CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this bid shall be new, and the most current standard model available at the time of the bid, unless otherwise stated. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
- SAFETY STANDARDS:** Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall comply with applicable requirements of Occupational Safety and Health Act and any standards thereunder.

- INVOICING AND PAYMENT: INTEREST PENALTIES:** Payment shall be made in accordance with Section 215.422, F.S., which states the contractors rights and the State agencies responsibilities concerning interest penalties and time limits for payment of invoices. Vendors providing goods and services to an agency should be aware of the following time frames: Upon receipt, an agency has five (5) working days to inspect and approve the goods and services, unless the bid specifications, purchase order or contract specifies otherwise. An agency has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved. If a payment is not available within 40 days, a separate interest penalty set by the Comptroller pursuant to Section 55.03 F.S., will be due and payable, in addition to the invoice amount, to the vendor. To obtain the applicable interest rate, contact the agency finance and accounting office. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the vendor requests payment. Invoices which have to be returned to a vendor because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the agency. Vendor payment history may be viewed on-line @ <https://flair.dbf.state.fl.us/caspub/vnpavhst.htm>. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be contacted at (850) 413-5516. The Department will review the conditions and circumstances surrounding non-payment, and unless there is a bonafide dispute, may, in writing, authorize the contract supplier to reject and return purchase orders from said agency until such time as the agency complies with the provisions of Section 215.422, F.S.
- DELIVERY:** Unless actual date is specified (or if specified delivery cannot be met), show number of days required to make delivery after receipt of purchase order in space provided above. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be Monday through Friday, 8:00 a.m. to 11:30a.m. and 1:00 p.m. to 4 p.m. Eastern Standard Time, excluding State of Florida holidays, unless otherwise specified.
- ADDITION OR DELETION OF TERMS OR CONDITIONS:** No addition or deletion of the terms or conditions included with the bid response shall be evaluated or considered and any and all such revisions shall have no force and effect and are inapplicable to this bid. If submitted either purposely through intent or design or inadvertently appearing separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and agreed the general and special conditions in this bid solicitation are the only conditions applicable to this bid and the bidders authorized signature affixed to the bidder acknowledgment form attests to this.

**12. INTERPRETATIONS/DISPUTES:** Any questions concerning conditions and specifications shall be directed in writing to this office for receipt no later than ten (10) days prior to the bid opening unless otherwise stated in the special conditions. Inquiries must reference the date of bid opening and bid number. No interpretation shall be considered binding unless provided in writing by the department in response to requests in full compliance with this provision. Any person who is adversely affected by the department's decision or intended decision concerning a procurement solicitation or contract award and who wants to protest such decision or intended decision shall file a protest in compliance with Chapter 28-110, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), F.S. or failure to post the bond or other security required by law within the time allowed shall constitute a waiver of proceedings under Chapter 120, F.S.

**13. NOTICE OF BID PROTEST BONDING REQUIREMENT:** Any person who files an action protesting a decision or intended decision pertaining to contracts administered by the department pursuant to Section 120.57 (3), F.S., shall post with the department agency at the time of filing the formal written protest, or within the 10 day period allowed for filing the formal written protest, a bond payable to the Department of Corrections in an amount equal to 1 percent (1%) of the department's estimate of the total volume of the contract, which bond shall be conditioned upon the payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. For protest of decisions or intended decisions of State Purchasing pertaining to the department's request(s) for approval of exceptional purchases, the bond shall be in the amount equal to 1 percent (1%) of the requesting agency's estimate of the contract amount for the exceptional purchase requested. In lieu of a bond State Purchasing or the department may, in either case, accept a cashier's check or money order in the amount of the bond. **FAILURE TO FILE THE PROPER BOND AT THE REQUIRED TIME WILL RESULT IN A DENIAL OF THE PROTEST.**

**14. CONFLICT OF INTEREST:** The award hereunder is subject to the provisions of Chapter 112, F.S. All bidders must disclose with their bid the name of any officer, director, or agent who is also an employee of the department. Further, all bidders must disclose the name of any department employee who owns, directly or indirectly, an interest of five percent (5%) or more in the bidders firm or any of its branches. In accordance with Chapter 287, F.S., no person or firm receiving a contract that has not been procured pursuant to Section 287.057(2) or (3), F.S., to perform a feasibility study of the potential implementation of a subsequent contract, participating in the drafting of an invitation for bids or request for proposals, or developing a program for future implementation shall be eligible to contract with the agency for any other contracts dealing with that specific subject matter: and bidders must disclose with their bid any such conflict of interest.

**15. AWARDS:** As the best interest of the State may require, the right is reserved to make award(s) by individual item, group of items, all or none, or a combination thereof: on a geographical district basis and/or on a statewide basis with one or more suppliers; to reject any and all bids or waive any minor irregularity or technicality in bids received. When it is determined there is competition to the lowest responsible bidder, evaluation of other bids is not required. Bidders are cautioned to make no assumptions unless their bid has been evaluated as being responsive. All awards made as a result of this bid shall conform to applicable Florida Statutes.

**16. SAMPLES:** Samples of items, when called for, must be furnished free of expense on or before the bid opening time and date, unless otherwise specified herein. If not destroyed, samples may, upon request, be returned at the bidder's expense. Each individual sample must be labeled with bidders name, manufacturer's brand name and number, bid number, and item reference. Request for return of samples shall be accompanied by instructions which include shipping authorization and name of carrier and must be received within ninety (90) days after bid opening date. If instructions are not received within this time, the commodities shall be disposed of by the department

**17. NONCONFORMANCE TO CONTRACT CONDITIONS:** Items may be tested for compliance with specifications by the Florida Department of Agriculture and Consumer Services, or by others acceptable to the department. Should the items fail testing, the department may require the vendor to reimburse the department for costs incurred by the department in connection with the examination or testing of the commodity including costs relating to transporting the commodity samples to the testing site, actual test costs, personnel costs and other applicable costs. The data derived from any tests for compliance with specifications are public records and open to examination thereto in accordance with Chapter 119, F.S. Items delivered not conforming to specifications may be rejected and returned at the vendors expense. These items and items not delivered as per delivery date in bid and/or purchase order may result in bidder being found in default in which event any and all procurement costs may be charged against the defaulting contractor. Any violation of these stipulations may also result in:

- a) Suppliers name being removed from State Purchasing vendor mailing list.
- b) All State departments being advised not to do business with the supplier without written approval from State Purchasing until such time as supplier reimburses the department for all procurement and cover costs.

**18. LEGAL REQUIREMENTS:** Applicable provision of all Federal, State, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the State of Florida, by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

**19. PATENTS AND ROYALTIES:** The bidder, without exception, shall indemnify and save harmless the purchaser and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or supplied by the bidder. The bidder has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by contractor or is based solely and exclusively upon the department's alteration of the article. The purchaser will provide prompt written notification of a claim of copyright or patent infringement and will afford the bidder full opportunity to defend the action and control the defense. Further, if such a claim is made or is pending, the contractor may, at its options and expenses procure for the purchaser the right to continue use of, replace or modify the article to render it non-infringing. (If none of the alternatives are reasonably available, the department agrees to return the article on request to the contractor and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.) If the bidder uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

**20. PRICE ADJUSTMENTS:** Any price decrease effectuated during the contract period by reason of market change or special sales offered to other customers shall be passed on to the department. This shall also apply to all in-place equipment on rent or lease plan. Price increases are not accepted, unless otherwise stated in this solicitation.

**21. CANCELLATION:** All contract obligations shall prevail for at least one hundred eighty (180) days after effective date of the contract. Also, cancellation may be required in accordance with Section 287.042(b), F.S. In addition to the provision of the Renewal Paragraph, for the protection of both parties, this contract may be cancelled, in whole or in part, by either party by giving thirty (30) days prior notice, in writing, to the other party.

**22. ABNORMAL QUANTITIES:** Should the department require making a purchase for abnormal quantities, the right is reserved to issue a separate solicitation.

**23. ADVERTISING:** In submitting a bid, bidder agrees not to use the results therefrom as part of any commercial advertising.

**24. ASSIGNMENT:** Any purchase order issued pursuant to this contract and the monies which may become due hereunder is not assignable except with the prior written approval of the department.

**25. LIABILITY:** The supplier shall hold and save the State of Florida, its officers, agents, and employees harmless against claims by third parties resulting from the supplier's breach of this contract or the supplier's negligence.

**26. FACILITIES:** The State reserves the right to inspect the bidder's facilities at any reasonable time with prior notice.

**27. DISTRIBUTION OF CERTIFICATION OF CONTRACT:** One (copy) of the Certification of Contract will be furnished to each contractor as a result of this solicitation. It shall be the contractor's responsibility to reproduce and distribute copies of this certification to all distributors listed in the contract who will accept orders and provide deliveries. No additions, deletions or any changes of any kind shall be made to the certification by the contractor without prior approval of the department.

**28. ADDITION/DELETION OF ITEMS:** The department reserves the right to add to or delete any item from this bid or resulting contract when deemed to be in the state's best interest.

**29. ORDERING INSTRUCTIONS:** Manufacturers are encouraged to bid direct, naming dealers who will accept orders and provide deliveries. If purchase orders are to be issued directly to distributors/dealers, contact information, including federal ID numbers, for the distributor(s) must be provided by the contractor.

**30. PUBLIC PRINTING:** A bidder must have, at the time of bid opening, a manufacturing plant in operation which is capable of producing the items bid and so certify upon request by the department. Every agency of the State, including agencies within the legislative and judicial branches of government, is required to give preference to bidders located within the State when awarding contracts to have materials printed, whenever such printing can be done at no greater expense than, and at a level of quality comparable to that obtainable from a bidder located outside the State.

**a) CONTRACTS NOT TO BE SUBLET:** In accordance with Printing Laws and Regulations, printing contracts cannot be sublet. Printing shall be awarded only to printing firms. No contract shall be awarded to any broker, agent, or independent contractor offering to provide printing manufactured by other firms or persons

**b) PRINTING ADJUSTMENTS, OVERRUNS-UNDERRUNS:** No adjustment shall be accepted on any purchase of printing unless conditions or specifications of bid expressly so provide.

**c) COMMUNICATIONS:** It is expected that all materials and proofs will be picked up and delivered by the printer or his representative, unless otherwise specified. Upon request, materials will be forwarded by registered mail.

**d) RETURN OF MATERIALS:** All copy, photos, artwork, and other materials supplied by the purchaser must be handled carefully and returned in good condition upon completion of the job. Such return is a condition of the contract and payment will not be made until return has occurred.

**31. PUBLIC RECORDS:** Any material submitted in response to this Invitation to Bid will become a public document pursuant to Section 119.07, F.S. This includes material which the responding bidder might consider to be confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening pursuant to Section 119.07, F.S.

**NOTE:**

ANY AND ALL SPECIAL CONDITIONS AND SPECIFICATIONS ATTACHED HERETO WHICH VARY FROM THESE GENERAL CONDITIONS SHALL HAVE PRECEDENCE. THE "GENERAL CONTRACT CONDITIONS", FORM PUR1000 (10/06), AND "THE GENERAL INSTRUCTIONS TO RESPONDENTS", FORM PUR1001 (10/06) ARE EACH HEREBY INCORPORATED BY REFERENCE. THESE CONDITIONS, FORMS, AND INSTRUCTIONS ARE AVAILABLE ON THE INTERNET AT [HTTP://DMS.MYFLORIDA.COM/PURCHASING](http://DMS.MYFLORIDA.COM/PURCHASING). ANY TERMS AND CONDITIONS SET FORTH WITHIN THESE DOCUMENTS SHALL SUPERCEDE ANY AND ALL CONFLICTING TERMS AND CONDITIONS SET FORTH WITHIN FORM PUR1000 AND FORM PUR1001.

THIS BIDDER ACKNOWLEDGEMENT/GENERAL CONDITIONS FORM AND THE ACCOMPANYING BID CONSTITUTE AN OFFER FROM THE BIDDER. IF ANY OR ALL PARTS OF THE BID ARE ACCEPTED BY THE DEPARTMENT, AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT SHALL AFFIX HIS/HER SIGNATURE HERETO. THIS SHALL THEN CONSTITUTE THE WRITTEN AGREEMENT BETWEEN THE PARTIES.

BY: \_\_\_\_\_  
Authorized Agency Signature

Contract Number \_\_\_\_\_

Date: \_\_\_\_\_

Effective: \_\_\_\_\_

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## **SECTION 1 – DEFINITIONS**

The following terms used in this Invitation to Bid (“ITB”), unless the context otherwise clearly requires a different construction and interpretation, have the following meanings:

- 1.1 **Balance Of Line:** Balance of line refers to additional items that may be needed by the department. Awards are not based on pricing submitted for balance of line items, but bidders must submit pricing for all balance of line items in order for their bid to be considered responsive. When balance of line items are listed in a solicitation, the department will clearly indicate what items will be considered in the basis for award.
- 1.2 **Breach of Contract:** The condition of the relationship between the Department and the Contractor which exists when the Contractor fails to perform under the terms and conditions of the Contract which may result from this ITB.
- 1.3 **Contract:** The agreement which results from this ITB between the winning Bidder and the Department.
- 1.4 **Contractor:** The organization or individual providing services to the Department in accordance with the terms of the Contract which results from this ITB.
- 1.5 **Department or Owner:** The Florida Department of Corrections referred to in this ITB document.
- 1.6 **Desirable Conditions:** The use of the words “should” or “may” in this ITB indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a proposal.
- 1.7 **Material Deviations:** The Department has established certain requirements with respect to bids to be submitted by bidders. The use of *shall*, *must* or *will* (except to indicate simple futurity) in this ITB indicates a requirement or condition which may not be waived by the Department except where the deviation therefrom is not material. A deviation is material if, in the Department’s sole discretion, the deficient response is not in substantial accord with this ITB’s requirements, provides an advantage to one bidder over other bidders, has a potentially significant effect on the quantity or quality of items bid, or on the cost to the Department. Material deviations cannot be waived and shall be the basis for rejection of a bid.
- 1.8 **Minor Irregularity:** A variation from the ITB terms and conditions which does not affect the price of the bid or give the bidder an advantage or benefit not enjoyed by the other bidders or does not adversely impact the interests of the Department.
- 1.9 **P-Card:** Refers to the State of Florida’s purchasing card program, using the Visa platform.
- 1.10 **Purchase Order:** The contract document issued by the Department to the Vendor to procure goods and services.
- 1.11 **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.
- 1.12 **Responsive Bid:** A bid, submitted by a responsive and responsible vendor that conforms in all material respects to the solicitation.
- 1.13 **Vendor, Offeror and Bidder:** A legally qualified corporation, partnership or other entity submitting a bid to the Department pursuant to this ITB.
- 1.14 **Winning or Successful Bidder:** The business or entity submitting the lowest responsive bid, meeting all requirements of the Department’s ITB.

## **SECTION 2 – INTRODUCTION**

### **2.1 Background and Statement of Purpose**

The purpose of this Invitation to Bid is to secure competitive bids from qualified vendors to furnish disposable cups, tableware, dinnerware and related items for delivery to various institutions throughout the state.

### **2.2 Contract**

As a result of this ITB, the successful bidder shall be awarded a five (5) year contract, which may be renewed for a period of five (5) years at the Department's sole discretion.

Purchases from the resulting Contract shall be accomplished through issuance of purchase orders. If regional purchasing offices choose to issue "term" purchase orders, the department's approved order form (DC2-577) shall be used for subsequent orders and shall reflect the original purchase order number.

### **2.3 Cooperative Purchasing**

Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases in accordance with the terms and conditions contained herein. The Department shall not be a party to any transaction between the Contractor and any other purchaser.

Other 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.

## **SECTION 3 – PRODUCT INFORMATION**

### **3.1 Specifications**

See Attachment 2 (pages 24 thru 25) for specifications. The vendor shall be capable of providing products, or an approved equivalent, listed on the Table 1-Cost Information Sheet.

### **3.2 Delivery**

Product(s) shall be shipped FOB: destination within thirty (30) days after receipt of an order. Deliveries must be made between 8:30 am to 4:00 pm ET, Monday thru Friday excluding Saturdays, Sundays, and state holidays, unless otherwise stated herein or on a subsequent purchase order.

### **3.3 Minimum Order**

The minimum order that shall be placed under this Contract shall be five hundred dollars (\$500.00) FOB destination. Orders received between four hundred ninety-nine dollars (\$499.00) and two hundred fifty dollars (\$250.00) shall be provided at the contract rate, shipped freight prepaid with actual transportation costs added to the invoice as a separate item. Orders less than two hundred and fifty dollars (\$250.00) may be purchased on the open market. Procurement Offices shall not divide its purchases to circumvent these requirements.

### **3.4 Quantity Discounts**

The Contractor shall provide a discount for the quantity/dollar level breaks if indicated on the Cost Information Sheet. The discount shall be applied to base unit cost provided under this Contract.

### **3.5 Contract Substitutions**

The Contractor will be required to provide only the product(s) awarded. Substituted products delivered or provided to the Department without prior approval by the Contract Administrator are prohibited, will be returned to the Contractor at the Contractor's expense, and may cause termination of the contract.

In the event the product specified can no longer be provided for reasons beyond the Contractor's control (i.e. - product discontinuance), the Contractor shall provide an alternate product request to the Contract Administrator. The substituted product shall meet (or exceed) all terms, conditions, and specifications applicable to the original specified product. An alternate product sample may be required by the Department for review prior to acceptance.

### **3.6 Damaged Goods**

The Contractor shall be responsible for filing, processing and collecting all damage claims. However, to assist the vendor in the expeditious handling of damage claims, the ordering office will:

1. Record any evidence of visible damage on all copies of the delivery carrier's Bill of Lading.
2. Report damage (visible or concealed) to the carrier and contract supplier, confirming such reports, in writing, within fifteen (15) days of delivery, requesting that the carrier inspect the damaged merchandise.
3. Retain the item and its shipping container, including inner packing material, until inspection is performed by the carrier and disposition given by the contract supplier.
4. Provide the vendor with a copy of the carrier's Bill of Lading and Damage Inspection Report.

### **3.7 Trade Names**

Any manufacturer's names, trade names, brand names or catalog numbers used in specifications contained in this bid are for the purposes of describing and establishing general quality levels. Such references are not intended to be restrictive. Bids will be considered for alternate items that meet or exceed the quality level of item(s) listed, unless "No Substitutes(s)" or other similar language is indicated on the Cost Information Sheet. If a vendor is submitting a bid for an alternate item, technical documentation/brochures must be provided to the Department for evaluation purposes. An alternate product sample may be required by the Department for review prior to acceptance.

### **3.8 Contract Sales Report**

The Contractor shall furnish the Department of Corrections, Bureau of Procurement and Supply, a summary report of contract sales at the end of each calendar quarterly period. The report shall summarize, at a minimum: total number of units sold during the quarter, total dollar value of units sold during the quarter, total number of units sold by delivery location, total number of units sold and total dollar value sold for the entire contract term. The Department may, at its discretion, develop the exact format the Contractor shall use for report submittal. Any report format developed by the Department shall be incorporated into, and shall become a part of, the original contract. A summary report shall be furnished for quarters that include less than three full months of business (such as, the beginning or end of the contract term). Failure to provide this information within thirty (30) calendar days following the end of each quarter may result in the termination of the contract.

### **3.9 Estimated Quantities**

The quantities listed herein are estimates, given only as a guideline for preparing your bid, and should not be construed as representing actual quantities to be purchased under any resulting contract.

### **3.10 Price Increase/Decrease**

The Department will consider price increases resulting from increases in raw material costs, manufacturing price increases, imposition of cost or taxes not contemplated at the time this ITB was released, etc., if rendered a written notice of vendor's price increase (i.e. letter, invoice, etc., from manufacturer, taxing, or other regulatory authority). After receipt by the Contract Administrator, price adjustments, if approved, will become effective thirty (30) days thereafter. Once a price adjustment request is received and approved, no entity will order more than a thirty (30) day's supply of any item prior to the effective date of the increase. Price increase(s) will not be considered during the first six (6) months of the contract.

### **3.11 Contract Modifications**

During the term of the Contract, the Department may require changes altering, adding to, or deducting from the Contract, provided that such changes are within the general scope of the Contract. The parties agree to renegotiate this Contract to comply with any applicable current or revised state laws, regulations, or increases/decreases in allocations making any changes in the Contract necessary. Modifications to provisions of this Contract shall only be valid through execution of a formal contract amendment, and duly signed by both parties. There are no obligations to agree by either party.

## ***SECTION 4 – PROCUREMENT RULES AND INFORMATION***

### **4.1 Bid Manager**

Questions related to this procurement should be addressed to:

Jessie C. Moseley, Purchasing Analyst  
Department of Corrections  
Bureau of Procurement & Supply  
2601 Blair Stone Road, C413  
Tallahassee, FL 32399-2500  
850-410-4056 (telephone number)  
850-488-7189 (facsimile number)  
E-mail address: moseley.jessie@mail.dc.state.fl.us

From the date this ITB is issued until a notice of intended award, rejection of all bids or other notice is made, no contact related to the ITB will be allowed between a bidder and any Department staff, with the exception of the Procurement Manager or her designee. Bidders shall not contact any other employee of the Department or the State for information with respect to this solicitation. Any unauthorized contact may disqualify the bidder from further consideration.

Pursuant to Section 287.057(24), Florida Statutes, Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the seventy-two (72) hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

Any person requiring special accommodations in responding to this solicitation because of a disability should call the Bureau of Procurement and Supply at 850-488-6671 at least five (5) days prior to any pre-



solicitation conference, solicitation opening or meeting. If you are hearing or speech impaired, please contact the Bureau of Procurement and Supply by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

Questions will only be accepted if submitted in writing and received on or before the date and time specified in the Calendar of Events (Section 4.2). Responses will be posted on the Vendor Bid System (VBS) by the date referenced in the Calendar of Events (Section 4.2).

**4.2 Calendar of Events**

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

	<u>Date</u>	<u>Time</u>	<u>Action</u>
4.2.1	11/29/2010		Release of ITB
4.2.2	12/13/2010		Last day for written inquiries
4.2.3	12/16/2010		Anticipated date that written responses to written inquiries will be posted on the Vendor Bid System (VBS).
4.2.4	01/04/2011	2:00 p.m.	Bid opening
4.2.5	01/07/2011		Anticipated date of posting of recommended award
4.2.6	01/14/2011		Anticipated date for issuance of purchase order or other document

**4.3 Procurement Rules**

**4.3.1 Mandatory Vendor Registration**

In 2003, the State of Florida implemented an on-line e-procurement system called MyFloridaMarketplace (MFMP) through which all purchase orders are issued and distributed via e-mail or facsimile (fax) machine. The method of automatic distribution is selected by the vendor during the registration process. Therefore, before doing business with any state agency, vendors must register in this system on-line at: <http://dms.myflorida.com/mfmp>. Vendors needing assistance with the registration process may call 1-866-352-3776. For information regarding the fees for this service, please refer to Section 7.3.1.

**4.3.2 Submission of Bids**

Each bid shall be prepared simply and economically, providing a straightforward, concise delineation of the bidder’s capabilities to satisfy the requirements of this ITB. Fancy bindings, colored displays, and promotional material are not desired. Emphasis in each bid must be on completeness and clarity of content. In order to expedite the review of bids, it is essential that bidders follow the format and instructions contained in the Bid Submission Requirements (Section 5), with particular emphasis on the Mandatory Responsiveness Requirements.

The Department will not consider any additional terms or conditions submitted by a bidder, including any appearing in documents attached as part of a bid response. In submitting its bid, a

bidder agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect.

Bids are due at the time and date specified in the Calendar of Events (Subsection 4.2) at the Department of Corrections, Bureau of Procurement and Supply, 2601 Blair Stone Road, 4<sup>th</sup> floor, Tallahassee, Florida 32399-2500, and shall be submitted to the attention of the Contact Person at the address listed in Subsection 4.1. Bids received late will not be considered. No Department staff will incur responsibility for the inadvertent opening of a bid not properly sealed, addressed or identified.

Before award, the Department reserves the right to seek clarifications or request any information deemed necessary for proper review of submissions from any bidder deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

#### **4.3.3 Bid Opening**

Bids will be publicly opened at the time and date specified in the “Calendar of Events” (Subsection 4.2). The name of all bidders submitting bids shall be made available to interested parties upon written request to the contact person listed in Section 4.1.

#### **4.3.4 Costs of Preparing Bid**

The Department is not liable for any costs incurred by a bidder responding to this ITB, including those for oral presentations, if applicable.

#### **4.3.5 Disposal of Bids**

All bids become the property of the State of Florida and will be a matter of public record subject to the provisions of Chapter 119, Florida Statutes.

#### **4.3.6 Bid Rules for Withdrawal**

A submitted bid may be withdrawn by submitting a written request for its withdrawal to the Department, signed by an authorized representative of the bidder within seventy-two (72) hours after the bid due date indicated in the Calendar of Events.

Any submitted bid that has not been properly withdrawn, shall remain a valid bid for twelve (12) months after the bid opening date.

#### **4.3.7 Rejection of Bids**

The Department shall reject any and all bids containing material deviations. The following definitions are to be utilized in making these determinations.

##### **4.3.7.1 Material Deviations**

The Department has established certain requirements with respect to bids to be submitted by bidders. The use of *shall*, *must* or *will* (except to indicate simple futurity) in this ITB indicates a requirement or condition which may not be waived by the Department except where the deviation therefrom is not material. A deviation is material if, in the Department’s sole discretion, the deficient response is not in substantial accord with this ITB’s requirements, provides an advantage to one bidder over other bidders, has a potentially significant effect on the quantity or quality of items bid, or on the cost to the

Department. Material deviations cannot be waived and shall be the basis for rejection of a bid.

#### **4.3.7.2 Minor Irregularities**

A variation from the ITB terms and conditions which does not affect the price of the bid or give the bidder an advantage or benefit not enjoyed by the other bidders or does not adversely impact the interests of the Department.

#### **4.3.8 Bid Inquiries**

**4.3.8.1** The bidder shall examine this ITB to determine if the Department's requirements are clearly stated. If there are any requirements which restrict competition, the bidder may request, in writing, to the Department, that the specifications be changed. The bidder who requests changes to the Department's specifications must identify and describe the bidder's difficulty in meeting the Department's specifications, must provide detailed justification for a change, and must recommend changes to the specifications. Requests for changes to this ITB must be received by the Department no later than the date shown for written inquiries in the "Calendar of Events." A bidder's failure to request changes by the date described above shall be considered to constitute bidder's acceptance of Department's specifications. The Department shall determine what changes to this ITB shall be acceptable to the Department. If required, the Department shall issue an addendum reflecting the acceptable changes to this ITB, and post as stated in Section 5.3.1, in order that all bidders shall be given the opportunity of proposing to the same specifications.

**4.3.8.2** Any inquiries from bidders concerning this ITB shall be submitted in writing, identifying the submitter, to the individual identified in Section 4.1 of this ITB and must be received no later than the date and time specified in Section 4.2 of the Calendar of Events. (E-mail inquiries are preferred with the bidder following up by mailing or faxing a hard copy.) It is the responsibility of the bidder to confirm receipt of e-mailed and faxed inquiries.

#### **4.3.9 Cost Discussions**

Any discussion by the bidder with any employee or authorized representative of the Department involving cost information, occurring prior to bid opening or notice of recommended award, or notice of rejection of all bids, will result in rejection of said bidder's bid.

#### **4.3.10 Verbal Instructions**

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any Department employee. Only those communications that are in writing from the Department's staff identified in Section 4.1 of this ITB shall be considered a duly authorized expression on behalf of the Department. Only communications from the Contractor's representative, which are in writing and signed, will be recognized by the Department as duly authorized expressions on behalf of the Contractor.

#### **4.3.11 No Prior Involvement and Conflicts of Interest**

The Contractor shall not compensate in any manner, directly or indirectly, any officer, agent or employee of the Department for any act or service that he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Contractor. No officer, agent, or employee of the

Department shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made, by anyone for, or on behalf of, the Department or the State of Florida.

The Contractor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under this Contract.

#### **4.3.12 Department of State Licensing Requirements**

All entities defined under Chapters 607, 617 or 620, Florida Statutes, seeking to do business with the Department shall be on file and in good standing with the Florida Department of State.

In furtherance of the One Florida Initiative, bidders are encouraged to seek the participation of certified minority business enterprises (CMBE). Information on the One Florida Initiative and CMBE's is available from the Office of Supplier Diversity at <http://osd.dms.state.fl.us>. Please identify each CMBE that will participate in the Contract and the nature of the participation.

#### **4.3.13 Public Entity Crimes**

A person or affiliate who has been placed on the Convicted Contractor List following a conviction for a public entity crime may not submit a bid or proposal to provide any goods or services to a public entity, may not submit a bid or proposal to a public entity for the construction or repair of a public building or public work, may not submit bids or proposals for leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the Convicted Contractor List.

#### **4.3.14 Discriminatory Vendor List**

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

#### **4.3.15 Unauthorized Employment of Alien Workers**

The Department does not intend to award publicly funded contracts to those who knowingly employ unauthorized alien workers, constituting a violation of the employment provisions as determined pursuant to Section 274A of the Immigration and Nationality Act.

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## **SECTION 5 – BID FORMAT AND CONTENTS**

This section contains instructions that describe the required format for the submitted bid. Bids shall be submitted in a sealed envelope, clearly marked “**Bid – ITB #10-DC-8235.**”

There is no intent to limit the content of the response. Additional information deemed appropriate by the bidder may be included. However, cluttering the bid with irrelevant material makes the review more difficult. The following paragraphs contain instructions that describe the required format for bid responses.

### **5.1 Responsiveness Requirements**

The following terms, conditions, or requirements must be met by the bidder to be responsive to this ITB. Failure to meet these responsiveness requirements may cause rejection of a bid.

**5.1.1** Bidder shall complete, sign and return the ITB Bidder Acknowledgement Form (page 1 & 2). The bidder must return either the original or a copy of both pages with an original signature on page one (1). Do not sign page two (2).

**5.1.2** The bidder shall complete, sign, date and return (all) pricing pages, entitled Cost Information Sheet, which consists of pages 24 through 25. By submitting a bid or bids under this ITB, each Bidder warrants its agreement to the prices submitted. The Department objects to and shall not consider any additional terms or conditions submitted by a bidder, including any appearing in documents attached as part of a bidder’s response. In submitting its bid, a bidder agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Any qualifications, counter-offers, deviations, or challenges may render the bid non-responsive.

### **5.2 Contact for Contract Administration**

The bidder shall complete and insert Attachment 1 of this ITB.

### **5.3 Addendum Acknowledgment Form**

If an addendum to this bid is issued, the Bidder shall complete and insert the Addendum Acknowledgment Form(s).

**5.3.1** The Department will post all addenda and materials relative to this procurement on the Florida Vendor Bid System at [www.myflorida.com](http://www.myflorida.com) under the posted bid number (click on “Business”, then “Doing Business with the State”, under “Everything for Vendors and Customers”, click on “Vendor Bid System (VBS)”, and “Search Advertisements”). Each bidder is responsible for monitoring this site for new or changing information relative to this procurement.

**5.3.2** An Addendum Acknowledgment Form will be included with each addendum and shall be signed by an authorized company representative, dated, and returned with the bid, as instructed in Section 5, Contents of Bid.

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## **SECTION 6 – AWARD OF CONTRACT**

### **6.1 Posting of Recommended Award**

The notice of intended award will be posted on or about the date shown in the “Calendar of Events” (Section 4.2) and will remain posted for a period of seventy-two (72) hours. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72 hour time period. Posting will be made available on the Florida Vendor Bid System at [www.myflorida.com](http://www.myflorida.com) (see additional instructions listed in Subsection 5.3.1).

**6.1.1** Any bidder who desires to protest the recommended award must file the following documents with the Agency Clerk in the Department’s Office of General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500, (telephone 850-488-2328) and provide copies to the Contact Person listed in Section 4.1 of this ITB:

**6.1.1.1** A written notice of intent to protest within seventy-two (72) hours after posting of the recommended award. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72 hour time period.

**6.1.1.2** A formal written protest by petition within ten (10) calendar days after the date on which the notice of protest is filed.

**6.1.1.3** A protest bond within ten (10) calendar days after the date on which the notice of protest is filed.

**6.1.2** Failure to file a protest within the time prescribed in Chapter 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.

**6.1.3** Pursuant to Section 287.042(2)(c), Florida Statutes, a formal written protest must be accompanied by a bond payable to the Department in an amount equal to one percent (1%) of the estimated total value of the proposed contract amount submitted by the protestor. The amount of the bond will be provided by the Department’s Office of General Counsel/Contracts Section and can be obtained by contacting the appropriate staff at (telephone number 850-488-2328, facsimile number 850-410-4133). In lieu of a bond, the Department may accept a cashier’s check, official bank check, or money order in the amount of the bond.

**6.1.4** In addition to the requirements of the paragraph No. 15 entitled “Awards” of the General Conditions of the ITB Bidder Acknowledgement Form (page 2), the Department shall not be obligated to pay for information obtained from or through any bidder prior to entering into a contract with the winning bidder.

### **6.2 Price Determination**

The Department will award the Contract to the lowest responsive bidder in accordance with the General Conditions of the ITB Bidder Acknowledgement Form (page 2), paragraph 15, entitled “Awards”. In the event the low cost bidder is found non-responsive, the Department may proceed to the next lowest cost responsive bidder and continue the award process.

Firm prices shall be bid and shall include all packaging, handling, shipping and delivery charges.

### **6.3 Incomplete Cost Information Sheet**

Any cost information sheet that is incomplete or in which there are significant inconsistencies or inaccuracies may be rejected by the Department. No deviations, qualifications, or counter offers will be

accepted. The Department reserves the right to reject any and all bids. All calculations will be reviewed and verified. The Department may correct mathematical errors; however, in the event of any miscalculation, unit prices shall prevail. All changes/corrections made by the bidder, including corrections made using "white out", shall be initialed by the bidder.

#### **6.4 Identical Tie Bids**

When evaluating bids/proposals/responses to solicitations, if the department receives identical pricing or scoring from multiple vendors, the department shall determine the order of award using the criteria set forth in Rule 60A-1.011, FA.C. and Chapter 295.187, F.S.

### ***SECTION 7 – CONTRACT TERMS AND CONDITIONS***

This section contains standard terms and conditions that shall be included in any Contract which results from this ITB. By submitting a bid in response to this ITB, the bidder is deemed to have accepted these terms and conditions in their entirety.

#### **7.1 Contract**

**7.1.1** A bidder's bid in response to this ITB shall be considered as the bidder's formal offer.

**7.1.2** Upon selection of the winning bid and completion of the seventy-two (72) hour posting process indicated in Section 6.1, an authorized representative of the agency shall affix their signature to the specified area on the bottom of the ITB Bidder Acknowledgement Form (Page 2), thereby certifying the bid. Once the bid submittal has been certified, the bidder shall be known as the "Contractor" and the certified bid shall constitute the Contract between the parties. If there is a conflict in language between the Department's ITB and the bidder's submitted bid, the Department's ITB will govern.

Upon certification, and based upon appropriation, the Department shall enter into a five (5) year contract. Said Contract is renewable, at the Department's sole discretion, for one five (5) year term. Such renewals are contingent upon satisfactory performance evaluations, as determined by the Department, and subject to the availability of funds.

The Department will forward a letter, along with a copy of the certified bid (Contract) to the Contractor and orders may then be issued against the Contract.

#### **7.2 Termination**

##### **7.2.1 Termination at Will**

The Contract may be terminated by the Department upon no less than thirty (30) calendar days' notice and by the Contractor upon no less than ninety (90) days notice, without cause, unless a lesser time is mutually agreed upon by both parties. If the Contract is executed via Purchase Order, notice of termination will be delivered electronically by change order to the Purchase Order through the state's e-procurement system, MyFloridaMarketplace. If the Master Contract was executed by certifying the ITB/RFP as the Contract, the notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery. Notices to the Department shall be sent to the individual listed in Section 4.1. Notices to the Vendor shall be sent to the individual listed in Attachment 1 – Contact (or Contract Administration).

### **7.2.2 Termination Because of Lack of Funds**

In the event funds to finance this purchase become unavailable, the Department may cancel the Contract upon no less than twenty-four (24) hours' notice in writing to the Vendor. Notice shall be delivered by certified mail (return receipt requested), facsimile, by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery. The Department shall be the final authority as to the availability of funds.

### **7.2.3 Termination for Cause**

If any breach of the terms and conditions of the Department's Purchase Order or any of its incorporated documents occurs by the Vendor, the Department may, by written notice to the Contractor, cancel the Contract upon twenty-four (24) hours' notice. Notice shall be delivered by certified mail (return receipt requested), by other method of delivery whereby an original signature is obtained, or in-person with proof of delivery. If applicable, the Department may employ the default provisions in Chapter 60A-1, Florida Administrative Code. The provisions herein do not limit the Department's right to remedies at law or to damages.

### **7.2.4 Termination for Unauthorized Employment**

Violation of the provisions of Section 274A of the Immigration and Nationality Act, shall be grounds for unilateral cancellation of the Contract.

## **7.3 Payments and Invoices**

### **7.3.1 Transaction Fee**

The Department of Management Services has instituted a statewide eProcurement System ("System"), with the assistance of a third-party agent, Accenture LLP ("Accenture"). All transactions from this Contract shall be processed through this system. Pursuant to Section 287.057(23), Florida Statutes (2002), a Transaction Fee of one percent (1%) of the total dollar amount of each purchase order shall apply to all purchases from this Contract unless otherwise exempt as indicated in 60A-1.032, F.A.C.. This fee, paid by the Contractor, is not submitted to the department and shall not be added to purchase orders as a separate item.

It is the intent of the system to automatically deduct the Transaction Fee from payments to the Contractor. However, this feature is not currently available and Contractors are expected to self-report until a method of automatic deduction is implemented. By submission of these self-reports and corresponding Contractor deposits, the Contractor is certifying their correctness. All such reports and fee deposits shall be subject to audit by the State.

The Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) 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 applicable purchase order or Contract.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees.  
**CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM BIDDING ON DEPARTMENT CONTRACTS.**

**7.3.2** The Contractor agrees to submit invoices for compensation for delivery of products/ services in detail sufficient for a proper pre-audit and post-audit thereof. Invoices will be paid upon receipt, inspection and acceptance of products/service(s).



### **7.3.3 Purchasing Card Program**

The State of Florida has implemented a purchasing card program, using the Visa platform. Upon mutual agreement of both parties, vendors may receive payments via purchasing card in the same manner as other Visa purchases.

## **7.4 Contract Management**

### **7.4.1 Department's Contract Administrator**

The Contract Administrator for this purchase will be:

Patti Casey, Assistant Bureau Chief  
Bureau of Procurement and Supply  
Department of Corrections  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2500  
850/414-8734 (telephone)  
850/488-7189 (facsimile number)  
[casey.patti@mail.dc.state.fl.us](mailto:casey.patti@mail.dc.state.fl.us)

The Contract Administrator will perform the following functions:

**7.4.1.1** maintain the Purchase Order or P-Card file;

**7.4.1.2** process all change orders and purchase order cancellations; and

maintain the official records of all correspondence between the Department and the Vendor.

## **7.5 Contract Management Changes**

After execution of the Contract resulting from this ITB, any changes in the information contained in Section 7.4, Contract Management of that Contract, will be provided to the other party in writing and a copy of the written notification shall be maintained in the official Contract file.

## **7.6 Vendor's Expenses**

The successful bidder shall pay for all licenses, permits, and inspection fees or similar charges required for this Contract, and shall comply with all laws, ordinances, regulations, and any other requirements applicable to the work to be performed under this Contract.

## **7.7 Governing Law and Venue**

This Contract is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with the laws, rules and regulations of the State of Florida. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

## **7.8 Records**

### **7.8.1 Public Records**

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

### **7.8.2 Disclosure of Bid Contents**

All documentation produced as part of this solicitation shall become the exclusive property of the Department and may not be removed by the Respondent or its agents. All bid submittals shall become the property of the Department and shall not be returned to Respondent. The Department shall have the right to use any or all ideas or adaptations of the ideas submitted. Selection or rejection of a bid shall not affect this right.

#### **7.8.2.1 Confidential, Proprietary, Or Trade Secret Material**

The Department takes its public records responsibilities as provided under chapter 119, Florida Statutes and Article I, Section 24 of the Florida Constitution, very seriously. If Respondent considers any portion of the documents, data or records 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, Respondent must also simultaneously provide the Department with a separate redacted copy of its response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. 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 Respondent submits its response to the solicitation and must only exclude or redact those exact portions which are claimed confidential, proprietary, or trade secret. Respondent shall be responsible for defending its determination that the redacted portions of its response are confidential, trade secret or otherwise not subject to disclosure. Further, Respondent shall protect, defend, and indemnify the Department for any and all claims arising from or relating to Respondent's determination that the redacted portions of its response are confidential, proprietary, trade secret or otherwise not subject to disclosure. If Respondent fails to submit a Redacted Copy with its response, the Department is authorized to produce the entire documents, data or records submitted by Respondent in answer to a public records request for these records.

### **7.8.3 Audit Records**

**7.8.3.1** The successful bidder agrees to maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Department under this Contract, and agrees to provide a financial and compliance audit to the Department or to the Office of the Auditor General and to ensure that all related party transactions are disclosed to the auditor.

**7.8.3.2** The successful bidder agrees to include all record-keeping requirements in all subcontracts and assignments related to this Contract.

#### **7.8.4 Retention of Records**

The successful bidder agrees to retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertaining to this Contract for a period of five (5) years. The successful bidder shall maintain complete and accurate record-keeping and documentation as required by the Department and the terms of this Contract. Copies of all records and documents shall be made available for the Department upon request. All invoices and documentation must be clear and legible for audit purposes. All documents must be retained by the successful bidder at the address listed on the ITB Bidder Acknowledgement Form (page 1), for the duration of this Contract. Any records not available at the time of an audit will be deemed unavailable for audit purposes. Violations will be noted and forwarded to the Department's Inspector General for review. All documents must be retained by the Vendor at the Vendor's primary place of business for a period of five (5) years following termination of the Contract, or, if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings. The Vendor shall cooperate with the Department to facilitate the duplication and transfer of any said records or documents during the required retention period. The Vendor shall advise the Department of the location of all records pertaining to this Contract and shall notify the Department by certified mail within ten (10) days if/when the records are moved to a new location.

#### **7.9 Prison Rehabilitative Industries and Diversified Enterprises, Inc. ("PRIDE")**

The Bidder agrees that any articles which are the subject of, or are required to carry out this Contract, shall be purchased from PRIDE, identified under Chapter 946, Florida Statutes, in the same manner and under the procedures set forth in Sections 946.515(2) and (4), Florida Statutes. The Bidder shall be deemed to be substituted for the Department in dealing with PRIDE, for the purposes of this Contract. This clause is not applicable to subcontractors, unless otherwise required by law. Available products, pricing, and delivery schedules may be obtained by contacting PRIDE.

This section is applicable to those products manufactured or services provided by PRIDE. For a list of these products, please go to <http://www.pride-enterprises.org/>.

#### **7.10 Product Available from the Blind or Other Handicapped (RESPECT)**

The Department supports and encourages the gainful employment of citizens with disabilities. 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.

This section is applicable to those products manufactured or services provided by RESPECT. For a list of these products, please go to <http://www.respectofflorida.org>.

#### **7.11 Procurement of Materials with Recycled Content**

It is expressly understood and agreed that any products or materials which are the subject of, or are required to carry out, this Contract shall be procured in accordance with the provisions of Section 403.7065, Florida Statutes.

## **7.12 Sponsorship**

If the Contractor is a nongovernmental organization which sponsors a program financed partially by state funds, including any funds obtained through this Contract, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (*insert Vendor's name*) and the State of Florida, Department of Corrections." If the sponsorship reference is in written material, the words "State of Florida, Department of Corrections" shall appear in the same size letters or type as the name of the organization.

## **7.13 Employment of Department Personnel**

The Contractor shall not knowingly engage, employ or utilize, on a full-time, part-time, or other basis during the period of this Contract, any current or former employee of the Department where such employment conflicts with Section 112.3185, Florida Statutes.

## **7.14 Non-Discrimination**

No person, on the grounds of race, creed, color, national origin, age, gender, marital status or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in, the performance of this Contract.

## **7.15 Americans with Disabilities Act**

The Contractor shall comply with the Americans with Disabilities Act. In the event of the Contractor's noncompliance with the nondiscrimination clauses, the Americans with Disabilities Act, or with any other such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts.

## **7.16 Indemnification**

The Contractor shall be liable, and agrees to be liable for, and shall indemnify, defend, and hold the Department, its employees, agents, officers, heirs, and assignees harmless from any and all claims, suits, judgments, or damages including court costs and attorney's fees arising out of intentional acts, negligence, or omissions by the Contractor, or its employees or agents, in the course of the operations of this Contract, including any claims or actions brought under Title 42 USC §1983, the Civil Rights Act.

## **7.17 Bidder's Insurance**

The Contractor agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this Contract. The Contractor accepts full responsibility for identifying and determining the type(s) and extent of insurance necessary to provide reasonable financial protection for the Contractor and the Department under this Contract. Upon issuance of the Purchase Order, the vendor may be required to furnish the Department written verification of such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Department reserves the right to require additional insurance where appropriate.

If the Contractor is a state agency or subdivision as defined in Section 768.28, Florida Statutes, the Contractor shall furnish the Department, upon request, written verification of liability protection in accordance with Section 768.28, Florida Statutes. Nothing herein shall be construed to extend any party's liability beyond that provided in Section 768.28, Florida Statutes.

## **7.18 Copyrights, Right to Data, Patents and Royalties**

Where activities supported by this Contract produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Department has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Department to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, will vest in the State of Florida, Department of State for the exclusive use and benefit of the state. Pursuant to Section 286.021, Florida Statutes, no person, firm or corporation, including parties to this Contract, shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Department of State.

The Department shall have unlimited rights to use, disclose or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Contractor under this Contract. All computer programs and other documentation produced as part of the Contract shall become the exclusive property of the State of Florida, Department of State, with the exception of data processing software developed by the Department pursuant to Section 119.083, Florida Statutes, and may not be copied or removed by any employee of the Contractor without express written permission of the Department.

The Contractor, without exception, shall indemnify and save harmless the Department and its employees from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied by the Contractor. The Contractor has no liability when such claim is solely and exclusively due to the combination, operation, or use of any article supplied hereunder with equipment or data not supplied by the Contractor or is based solely and exclusively upon the Department's alteration of the article. The Department will provide prompt written notification of a claim of copyright or patent infringement and will afford the Contractor full opportunity to defend the action and control the defense of such claim.

Further, if such a claim is made or is pending, the Contractor may, at its option and expense, procure for the Department the right to continue use of, replace, or modify the article to render it noninfringing. (If none of the alternatives are reasonably available, the Department agrees to return the article to the Contractor upon its request and receive reimbursement, fees and costs, if any, as may be determined by a court of competent jurisdiction.) If the Contractor uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the Contract prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work to be performed hereunder.

## **7.19 Disputes**

Purchasing entities are to report any vendor failing to perform according to the requirements of this contract on a Department of Management Services' (DMS) Complaint to Vendor form (#PUR7017). The Bureau of Procurement & Supply will provide a copy of the #PUR7017 to the State Purchasing Office at the Department of Management Services. Should the vendor fail to satisfactorily correct the problem within a prescribed period of time, then a "Request for Assistance" form (#DC2-509) shall be submitted to the Contract Administrator with a copy to the Contract Manager, if applicable. The Contract Administrator shall decide the dispute (with input from the Contract Manager if applicable), reduce the decision to writing, and deliver a copy to the Vendor and the Contract Manager, if applicable. If the dispute cannot be resolved by the Contract Administrator, the issue shall be escalated to the Bureau Chief of Procurement and Supply for resolution. Copies of these submittals shall remain in the contract file for use in decisions regarding renewal options.

**7.20 Independent Vendor Status**

The Contractor shall be considered an independent Vendor in the performance of its duties and responsibilities under this Contract. The Department shall neither have nor exercise any control or direction over the methods by which the Contractor shall perform its work and functions other than as provided herein. Nothing in this Contract is intended to, nor shall be deemed to constitute, a partnership or a joint venture between the parties.

**7.21 Assignment**

The Contractor shall not assign its responsibilities or interests under this Contract to another party without prior written approval of the Department's Contract Administrator, or the Contract Manager, if applicable. The Department shall, at all times, be entitled to assign or transfer its rights, duties and obligations under this Contract to another governmental agency of the State of Florida upon giving written notice to the Contractor.

**7.22 Force Majeure**

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Contract or interruption of performance resulting directly or indirectly from acts of God, accidents, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

**7.23 Severability**

The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Contract can still be determined and effectuated.

**7.24 Use of Funds for Lobbying Prohibited**

The Contractor agrees to comply with the provisions of Section 216.347, Florida Statutes, which prohibits the expenditure of state funds for the purposes of lobbying the Legislature, the Judicial branch, or a state agency.

**7.25 Convicted Felons Certification**

No personnel assigned to this Contract may be a convicted felon or have relatives either confined by, or under supervision of, the Department, unless an exception is granted.

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**MANDATORY FORM**

*ATTACHMENT 1 –CONTACT FOR CONTRACT ADMINISTRATION*  
ITB #10-DC-8235

Designate one person authorized to conduct Contract administration.

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

TITLE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

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

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

\_\_\_\_\_

**ORDERING INFORMATION**

**ALL PURCHASE ORDERS SHOULD BE DIRECTED TO:**

VENDOR \_\_\_\_\_

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

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

FAXED ORDERS WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_ BE ACCEPTED.

**MANDATORY FORM**

**COST INFORMATION SHEET**

**BID NO.: # 10-DC-8235**

**FOB DESTINATION: Various locations  
throughout Florida**

<b>Product</b>	<b>Specification</b>	<b>Unit</b>	<b>Annual Estimated Quantity</b>	<b>Cost</b>
Item # 1 Cup, Translucent	<b>TRANSLUCENT CUP</b> (for cold liquids): 5 oz, made from high impact polystyrene, DART 5N25; 2500/case	Case 2500 ea	140	
Item # 2 Lid, Translucent	<b>TRANSLUCENT LID:</b> (for 5 oz cup), DART L7N25; 2500/case	Case 2500 ea	50	
Item # 3 Cup, Foam	<b>CUP, FOAM, MOLDED:</b> 8 oz, polystyrene foam cup, DART 8J8; 1000/case	Case 1000 ea	4,870	
Item # 4 Lid, Vented	<b>VENTED LID:</b> (for 8 oz cup) DART 8JL;1000/case	Case 1000 ea	70	
Item # 5 Cup, Conical, Water	<b>CUP, CONICAL, WATER:</b> one piece, single wrap, dry waxed, plain white, straight edge, 4 oz, GENPAK 4; 5000/case	Case 5000 ea	350	
Item # 6 Cup, Conical, Water	<b>CUP, CONICAL, WATER:</b> one piece, single wrap, dry waxed, plain white, rolled rim, 4 oz, GENPAK 4F; 5000/case	Case 5000 ea	170	
Item # 7 Cup, Soufflé or Portion	<b>CUP, SOUFFLE OR PORTION:</b> one piece, flat bottom, pleated paper, rolled rim, dry waxed, 2 oz, GENPAK F200; 5000/case	Case 5000 ea	5	
Item # 8 Cup, Plastic	<b>CUP, PLASTIC:</b> one ounce, graduated markings, translucent, flat bottom, 1 oz, JET PLASTICA PC100; 5000/case	Case 5000 ea	10	
Item # 9 Plate, Foam	<b>PLATE, POLYSTYRENE LAMINATED FOAM:</b> matched, white, round or oval (+/- .25" tolerance) 3 compartment, 10", SOLO RS10CY; 500/case	Case 500 ea	400	
Item # 10 Tray, Styrofoam	<b>TRAY, STYROFOAM:</b> three compartment; hinged lid. Size 9.25" x 9.25 " x 3" (+/- .25" each side); 300/case	Case 300 ea	4840	
Item #11 Sandwich Bags	<b>BAG, SANDWICH, FLIP LOCK:</b> plastic; 0.0006 mil (+/- 10%) 5.5 x 6.5 – 6.5 x 7 (+ / - .25"); 2000/case	Case 2000 ea	4120	

NAME OF BIDDER

FEID#

SIGNATURE OF AUTHORIZED REPRESENTATIVE

DATE



**MANDATORY FORM**

<b>Product</b>	<b>Specification</b>	<b>Unit</b>	<b>Annual Estimated Quantity</b>	<b>Cost</b>
Item # 12 Serving Gloves	<b>GLOVES, POLY:</b> disposable; clear; polyethylene; size- large; 1000/case	Case 1000 ea	16,075	
Item #13 Disposable Aprons	<b>APRON, PLASTIC:</b> Bib type; disposable; white; polypropylene or similar material; flame resistant; 1000/case	Case 1000 ea	2,100	
Item #14 Paper Bags	<b>BAG, PAPER:</b> brown; 6 #; Union; 1000/case	Bale 1000 ea	2,350	
Item #15 Food Wrap	<b>FOOD WRAP:</b> clear; 18 inch; standard thickness; non-metal cutter; 2000' roll	Roll, 2,000 feet	8,065	
Item # 16 Food Service Cap, Bouffant	<b>CAP, BOUFFANT:</b> 21 inch; white; elastic band; cloth-like material; provides full hair coverage; 1000/case	Case 1000 ea	3,160	
Item #17 Napkins	<b>NAPKINS:</b> bleached; white; 3.5 x 6.5 folded; 10,000/case	Case 10,000 ea	5,900	
Item # 18 Spork	<b>SPORK:</b> polypropylene; white; medium weight; bulk; 1000 case.	Case 1000 ea	5,145	
Item # 19 Pan Liner	<b>PAN LINER:</b> reusable; high wet strength,; all natural; 16-3/8" x 24-3/8"; 1000 case	Case 1000 ea	1,400	
Item # 20 Bun Pan Rack Cover	<b>BUN PAN RACK COVER:</b> poly; NSF certified; clear; 52" x 80"; 0.6 mil; 50 ea. case	Case 50 ea	410	
Item # 21 Test Strips, Chlorine	<b>CHLORINE TEST STRIPS:</b> measures chlorine within a range of 10 - 200 p.p.m.; packed 200 strips per vial; color coded chart on vial for quick comparison.	Vial 200 ea	130	

DELIVERY WILL BE MADE WITHIN \_\_\_\_\_ DAYS AFTER RECEIPT OF ORDER. (If Section 3.2 of this bid indicates a specific number of days required for delivery, then the number of days you insert here may be less than those required, but cannot be more.)

\_\_\_\_\_  
NAME OF BIDDER FEID#

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE DATE