



**State Term Contract  
No. 14111500-15-1  
For  
Paper: Office, Virgin and Recycled Content**

This Contract is between the State of Florida, Department of Management Services (Department), an agency of the State of Florida and Mac Papers, Inc. (Contractor), collectively referred to herein as the “Parties.”

The Contractor submitted a bid to the Department’s solicitation, ITB 18-14111500-P for Paper: Office, Virgin and Recycled Content. After evaluation of bids, the Department has determined that the Contractor’s bid provides a best value to the State of Florida.

Accordingly, the Parties agree as follows:

**Initial Contract Term**

The Initial Contract Term shall be for five (5) years. The Initial Contract Term shall begin on the last date upon which this Contract is signed by all Parties.

**Renewal Term(s)**

Upon mutual written agreement, the Parties may renew this Contract, in whole or in part, for a Renewal Term not to exceed the Initial Contract Term of five (5) years, pursuant to the incorporated General Contract Conditions.

**Contract**

The following documents are incorporated into this State Term Contract. If a conflict exists among any of the below incorporated documents, the documents shall have priority in the order listed:

- a) This State Term Contract.
- b) Pricing Tool Workbook.
- c) Description of Scope.
- d) Special Contract Requirements.
- e) General Contract Requirements.
- f) Solicitation with Addendum.
- g) Vendor’s Bid Submission Documents.

**Amendments**

No oral modifications to this Contract are acceptable. All modifications to this Contract must be in writing and signed by all Parties.

State Term Contract No. 14111500-15-1  
For  
**Paper: Office, Virgin and Recycled Content**

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract, which includes any referenced attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid until signed and dated by both Parties.

**Mac Papers, Inc.**

**STATE OF FLORIDA,  
DEPARTMENT OF MANAGEMENT SERVICES**

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
DATE:

\_\_\_\_\_  
DATE:

State Term Contract No. 14111500-15-1  
For  
Paper: Office, Virgin and Recycled Content

IN WITNESS THEREOF, the Parties hereto have caused this Contract, which includes any referenced attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid until signed and dated by both Parties.

Mac Papers, Inc.

STATE OF FLORIDA,  
DEPARTMENT OF MANAGEMENT SERVICES

  
\_\_\_\_\_  
[Name]

  
\_\_\_\_\_  
[Name]

7/11/16  
\_\_\_\_\_  
DATE:

7/19/16  
\_\_\_\_\_  
DATE:



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

**state purchasing**

We serve those who serve Florida

**The State of Florida**

**Department of Management Services**

**INVITATION TO BID**

**ITB No: 18-14111500-P**

**PAPER: OFFICE, VIRGIN AND RECYCLED CONTENT**

## TABLE OF CONTENTS

<b>1 INTRODUCTION</b>	<b>6</b>
<b>1.1 Overview</b>	<b>6</b>
<b>1.2 Solicitation Objective</b>	<b>6</b>
<b>1.3 Definitions</b>	<b>6</b>
1.3.1 Bidder	6
1.3.2 Business Days	6
1.3.3 Confidential Information	6
1.3.4 Contract	6
1.3.5 Contractor	7
1.3.6 Cut Bond Paper	7
1.3.7 Dual-Purpose	7
1.3.8 Eligible User	7
1.3.9 Laser Print	7
1.3.10 Manufacturer	7
1.3.11 Other Eligible User (OEU)	7
1.3.12 Postconsumer Materials	7
1.3.13 Recovered Materials and Fiber	7
1.3.14 Recycled Content	7
1.3.15 Online Reverse Auction	7
1.3.16 Qualified Bidder	8
1.3.17 UNSPSC	8
1.3.18 Vendor	8
1.3.19 Xerographic Paper	8
<b>1.4 Term</b>	<b>8</b>
<b>1.5 Timeline of Events</b>	<b>8</b>
<b>1.6 Order of Precedence for Solicitation</b>	<b>8</b>
<b>1.7 Procurement Officer</b>	<b>9</b>
<b>1.8 Limitation on Contact with Government Personnel</b>	<b>9</b>
<b>1.9 ITB Process</b>	<b>9</b>
1.9.1 Solicitation Issuance	9
1.9.2 Protest of Terms, Conditions, and Specifications	9
1.9.3 Pre-Response Conference	10
1.9.4 Question Submission	10
1.9.5 Solicitation Addenda	10
1.9.6 Public Opening	10
1.9.7 Phase I Qualification Stage	10

1.9.7.1 Evaluation of Responses	10
1.9.7.2 Posting of Qualified Bidders	11
1.9.8 Phase II Online Reverse Auction Phase	11
1.9.8.1 MFMP Sourcing Online Reverse Auction Mandatory Training	11
1.9.8.2 Online Reverse Auction Event	11
1.9.9 Phase III Contract Award Phase	11
1.9.9.1 Submission of Workbook (Detailed Prices)	11
1.9.9.2 Application of Florida Vendor Preference (287.084, Florida Statutes).	11
1.9.9.3 Electronic Posting of Notice of Intended Award	12
1.9.10 Protest of Notice of Intended Award	12
<b>1.10 Contract Formation</b>	<b>12</b>
<b>2 INSTRUCTIONS TO BIDDERS</b>	<b>13</b>
<b>2.1 General Instructions</b>	<b>13</b>
<b>2.2 Special Instructions</b>	<b>13</b>
2.2.1 Special Accommodations	13
2.2.2 MFMP Registration	13
2.2.3 How to Submit a Response	13
2.2.4 Sourcing Tips and Training	13
2.2.5 Who May Respond	14
2.2.6 Disclosure of Bid Contents	15
2.2.7 Mandatory Requirements or Conditions	15
2.2.8 Bidder Qualification Questions	15
<b>2.3 Contents of Bid</b>	<b>16</b>
2.3.1 Part 1 - Company Information	16
2.3.2 Part 2- Relevant Past Performance	16
2.3.2.1 Contract number;	16
2.3.2.2 Term of the Contract;	16
2.3.2.3 The name and telephone number of the Customer's contact person;	16
2.3.2.4 Volume of cut bond paper sold by your organization under the Contract;	16
2.3.2.5 The final overall sales received by your organization under the Contract.	16
2.3.3 Part 3 – Other information	16
2.3.3.1 Out of State Preference Letter from Attorney (if applicable)	16
2.3.3.2 Certification of Drug-Free Workplace (Attachment C)	17
2.3.3.3 Preferred Pricing Affidavit (Attachment D)	17
2.3.4 Part 4 - Price Tool Workbook (Attachment A) To be submitted in Phase III	17
2.3.5 Online Reverse Auction General Rules	17
<b>2.4 Alternate Responses</b>	<b>19</b>
<b>2.5 Evaluation Criteria</b>	<b>19</b>
<b>2.6 Basis of Award</b>	<b>19</b>
<b>2.7 Preference to Florida Vendors</b>	<b>19</b>

<b>2.8 Firm Response</b>	<b>19</b>
<b>2.9 Modification or Withdrawal of Bid</b>	<b>19</b>
<b>2.10 Cost of Response Preparation &amp; Independent Preparation</b>	<b>19</b>
<b>2.11 Tie Bids</b>	<b>19</b>
<b>2.12 Contract Minor Irregularities/Right to Reject</b>	<b>20</b>
<b>2.13 Redacted Submissions</b>	<b>20</b>
<b>2.14 Additional Information</b>	<b>20</b>
<b>3 DESCRIPTION OF SCOPE</b>	<b>21</b>
<b>3.1 Scope</b>	<b>21</b>
3.1.1 Type I, Xerographic, Dual Purpose	21
3.1.2 Type II, Xerographic, Dual Purpose, Recycled	21
3.1.3 Type III, Xerographic, Color, Dual Purpose, Recycled	21
3.1.4 Type IV, Laser Print	21
<b>3.2 Product Specifications and Standards</b>	<b>21</b>
3.2.1 Type I, Xerographic, Dual Purpose	21
3.2.2 Type II, Xerographic, Dual Purpose; Recycled Content	22
3.2.3 Type III, Xerographic, Color, Dual Purpose, Recycled Content	22
3.2.4 Type IV, Laser Print	22
<b>3.3 Testing</b>	<b>22</b>
<b>3.4 Warranty</b>	<b>22</b>
<b>3.5 Transportation and Delivery</b>	<b>23</b>
<b>3.6 Minimum Order Quantity</b>	<b>23</b>
<b>3.7 Delivery Requirements</b>	<b>24</b>
3.7.1 Dockside/Street Delivery	24
3.7.2 Inside Delivery	24
3.7.3 Special Inside Delivery	24
3.7.4 Delivery Fee	24
<b>3.8 Acceptance</b>	<b>24</b>
<b>4 CONTRACT CONDITIONS</b>	<b>25</b>
<b>4.1 General Contract Requirements</b>	<b>25</b>
<b>4.2 Special Contract Requirements</b>	<b>25</b>
4.2.1 Lobbying Disclosure	25

4.2.2 Financial Consequences for Nonperformance	25
4.2.3 Price Adjustment	25
4.2.4 Compliance with Laws, Rules, Codes, Ordinances, and Licensing Requirements	26
4.2.5 Insurance Requirements	26
4.2.6 Notice of Legal Actions	26
4.2.7 Public Records	27
4.2.7.1 Access to Public Records	27
4.2.7.2 Protection of Trade Secrets or Other Confidential Information	27
4.2.8 Retention of Records	28
4.2.9 Annual Appropriations	28
4.2.10 Renewal	28
4.2.11 Cancellation	28
4.2.12 Intellectual Property	28
4.2.13 Gifts	28
4.2.14 Vendor Ombudsman	28
4.2.15 Monitoring by the Department	29
4.2.16 Cooperation with the Inspector General	29
4.2.17 Scrutinized Company List	29
4.2.18 Business Review Meetings	29
4.2.19 E-Verify	29
4.2.20 Subcontracting	29
4.2.21 Performance Qualifications	30
4.2.22 Contract Reporting	30
4.2.22.1 Contract Quarterly Sales Report (Contract Deliverable)	30
4.2.22.2 Transaction Fee Reports	31
4.2.22.3 Savings/Price Reductions (Attachment E) - Post Award	31
4.2.22.4 Diversity Reporting	31
4.2.23 Preferred Pricing Affidavit Requirement	31
4.2.24 Contract Termination	31
4.2.25 Force Majeure	32
4.2.26 Additional Provisions	32
<b>5 ATTACHMENTS</b>	<b>33</b>
<b>Attachment A Pricing Tool Workbook (section 2.3.4)</b>	<b>33</b>
<b>Attachment B Quarterly Sales Report (section 4.2.22.1)</b>	<b>33</b>
<b>Attachment C State of Florida Drug-Free Workplace Certification (section 2.3.3.2)</b>	<b>33</b>
<b>Attachment D Preferred Pricing Affidavit (section 2.3.3.3)</b>	<b>33</b>
<b>Attachment E Savings/Price Reduction Form (section 2.3.4.2)</b>	<b>33</b>
<b>Attachment F Ordering Information Form (section 2.3.1)</b>	<b>33</b>
<b>Attachment G Timeline of Events (section 1.5)</b>	<b>33</b>



# 1 Introduction

## 1.1 Overview

The State of Florida Department of Management Services, Division of State Purchasing (Department) is issuing this Invitation to Bid (ITB), per section 287.057(1) (g), Florida Statutes, to replace the current State Term Contract (STC) for the purchase of Paper: Office, Virgin and Recycled Content.

The Department intends to solicit for, and enter into a Contract with a responsive and responsible Vendor according to the criteria defined herein, for the provision of commodities described within this solicitation under the authority and criteria established by section 287.057, Florida Statutes.

Rule 60A-1.044(1), Florida Administrative Code, defines an STC as “indefinite quantity Contracts competitively procured by the Department pursuant to s. 287.057, Florida Statutes, available for use by Eligible Users.”

This solicitation shall be administered using the MyFloridaMarketPlace (MFMP) Sourcing. Vendors interested in submitting a response or bid shall comply with all of the terms and conditions described in this ITB and its attachments. Information about submitting a response can be found in Instructions to Bidders, section 2 of this solicitation.

## 1.2 Solicitation Objective

The current STC for Paper: Office, Virgin and Recycled Content has an estimated average annual spending volume of approximately \$10.2 million dollars. Estimated spending volume is for informational purposes only and must not be construed as representing actual, guaranteed, or minimum purchases under any new Contract. Customers include state agencies and other eligible users.

## 1.3 Definitions

Definitions contained in section 287.012, Florida Statutes, Rule 60A-1.001, Florida Administrative Code, Form PUR 1000 and Form PUR 1001 are incorporated by reference, and apply to this solicitation. These definitions apply in both their singular and plural sense.

### 1.3.1 Bidder

A vendor who submits a response per Section 1.1.

### 1.3.2 Business Days

Monday through Friday, 8am to 5pm, not including paid state holidays listed in subsection 110.117(1), Florida Statutes.

### 1.3.3 Confidential Information

Any portion of a Bidder's documents, data, or records disclosed relating to its response that the Bidder claims is confidential and not subject to disclosure pursuant to chapter 119, Florida Statutes, the Florida Constitution, or any other authority that is clearly marked “Confidential”.

### 1.3.4 Contract

The agreement that results from this solicitation, if any, between the Department and the Contractor identified as providing the best value to the State. (This definition replaces the definition in the PUR 1000).

### **1.3.5 Contractor**

The Bidder that has been awarded and Contracts to sell products and/or Contractual services, which meet the requirements, specifications, terms, and conditions herein, to an Eligible User.

### **1.3.6 Cut Bond Paper**

Paper cut to specific sizes suitable for electronic printing and use in office machines including copiers and network.

### **1.3.7 Dual-Purpose**

Bond paper manufactured to be suitable for multiple usage applications.

### **1.3.8 Eligible User**

As defined in Rule 60A-1.005, Florida Administrative Code.

### **1.3.9 Laser Print**

Bond paper designated and manufactured to perform for image production for laser print technology.

### **1.3.10 Manufacturer**

The original producer of Paper: Office, Virgin and Recycled Content responsive to this solicitation.

### **1.3.11 Other Eligible User (OEU)**

An “eligible user” as defined in Rule 60A-1.005, Florida Administrative Code, that does not fit the definition of “Agency” under section 287.012(1), Florida Statutes.

### **1.3.12 Postconsumer Materials**

Materials or finished products that have served its intended end use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Postconsumer materials are a part of the broader category of Recovered Materials and Fiber.

### **1.3.13 Recovered Materials and Fiber**

Waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly used within an original manufacturing process.

### **1.3.14 Recycled Content**

Materials that have been recycled that are contained in the products or materials to be procured. The term does not include the virgin component of internally generated scrap that is commonly used in industrial or manufacturing processes or such waste or scrap purchased from another manufacturer who manufactures the same or a closely related product. Recycled Content paper contains at least 10 percent Postconsumer Materials.

### **1.3.15 Online Reverse Auction**

A type of auction in which vendors bid for the prices at which they are willing to sell their products. In a regular auction, a vendor puts up an item and buyers place bids until the close of the auction, at which time the item goes to the highest bidder. In an Online Reverse Auction, the buyer puts up a request for a required product. Bidders then place bids for the amount they are willing to be paid for the product, and at the end of the auction the Bidder with the lowest amount bid wins.

### **1.3.16 Qualified Bidder**

A Bidder that has been deemed eligible to participate beyond Phase I as described in Section 1.9.7.

### **1.3.17 UNSPSC**

An acronym for the United Nations Standard Products and Services Code.

### **1.3.18 Vendor**

The entity that is in the business of providing a commodity or service similar to those within the solicitation.

### **1.3.19 Xerographic Paper**

Paper made specifically for the electrostatic printing process for copying text or graphics whereby areas on a sheet of paper corresponding to the image areas of the original are sensitized with a charge of static electricity so that, when powdered with a toner carrying an opposite charge, only the charged areas retain the toner, which is then fused to the paper to make it permanent.

## **1.4 Term**

The initial term of the Contract shall be five (5) years upon execution by both parties. The Contract may be renewed in whole or in part for a period that shall not exceed the renewal years. Upon mutual agreement, the Department and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed five (5) years. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

## **1.5 Timeline of Events**

The table (Attachment G) contains the Timeline of Events for this solicitation. Vendors should become familiar with the Timeline of Events. The dates and times within the Timeline of Events may be subject to change. It is the responsibility of the Vendor to check for any changes. All changes to the Timeline of Events shall be made through an addenda to the solicitation and noticed on the [Vendor Bid System](#) and within [MFMP Sourcing](#).

**DO NOT RELY ON MFMP SOURCING TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME AND RESPONSE DEADLINES SHALL BE AS REFLECTED IN THE TIMELINE.** MFMP Sourcing time remaining clock is not the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

**It is strongly recommended to submit your response as early as possible. You should allow time to receive any requested assistance and to receive verification of your submittal; waiting until the last hours of the solicitation could impact the timely submittal of your response.**

## **1.6 Order of Precedence for Solicitation**

In the event of conflict, the conflict may be resolved in the following order of priority (highest to lowest):

1. Addenda to Solicitation, if issued
2. Introduction
3. Description of Scope
4. Special Instructions

5. General Instructions
6. Special Contract Requirements
7. General Contract Requirements
8. Attachments

### **1.7 Procurement Officer**

The Procurement Officer is the sole point of contact from the date of release of this ITB until 72 hours after the Contract award is made.

Procurement Officer for this ITB is:

Gregory Bunn  
Category Manager  
Florida Department of Management Services  
Division of State Purchasing  
4050 Esplanade Way, Suite 360  
Tallahassee, FL 32399-0950  
Phone: (850) 488-4945  
Email: [Gregory.Bunn@dms.myflorida.com](mailto:Gregory.Bunn@dms.myflorida.com)

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

### **1.8 Limitation on Contact with Government Personnel (section 287.057(23), Florida Statutes)**

Bidders to this solicitation or persons acting on their behalf may not contact, between the release of this solicitation and the end of the 72-hour period following the agency posting the Notice of Intended Award, excluding Saturdays, Sundays, and State holidays (section 110.117, Florida Statutes), 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.

### **1.9 ITB Process**

The ITB is a method of competitively soliciting a commodity or Contractual service pursuant to section 287.057(1) (a), Florida Statutes.

#### **1.9.1 Solicitation Issuance**

The Department posts the solicitation on the Vendor Bid System and within the MyFloridaMarketPlace (MFMP) Sourcing system.

#### **1.9.2 Protest of Terms, Conditions, and Specifications**

With respect to a protest of the terms, conditions, specifications contained in this solicitation, including any provisions governing the methods for scoring or ranking responses, awarding Contracts, or modifying or amending any Contract, a notice of intent to protest shall be filed in writing within 72 hours after the posting of the solicitation. For purposes of this provision, the term "the ITB" includes this solicitation document, any addenda, response to written questions, clarification or other document concerning the terms, conditions, and specifications of the solicitation.

### **1.9.3 Pre-Response Conference**

The Department will conduct a pre-response conference in accordance with the timeline of events. The purpose of the conference is to ensure full understanding of the requirements, the solicitation and the process used for selection. Attendance at this conference is not mandatory, but is highly encouraged.

### **1.9.4 Question Submission**

The Department will provide an opportunity for written questions regarding the solicitation or the procurement process submitted through MFMP Sourcing for a limited period of time as specified in the Timeline of Events. The purpose of this question period is to promote the vendors' full understanding of the solicitation requirements by providing written binding answers to questions about the solicitation.

In order to submit a question, vendors will login to MFMP Sourcing and have access to the "Messages" tab on the dashboard of the solicitation. For information about registering with MFMP, please see section 2.2, Special Instructions. The Department will not respond to questions submitted through any other format or medium (telephone calls, emails, letters, etc.).

Questions submitted via the "Messages" tab within MFMP Sourcing Q & A Board shall be RECEIVED NO LATER THAN the time and date reflected on the Timeline of Events. Questions shall be officially answered, as stated in the Timeline of Events. The Department 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 Department's Contracting personnel.

### **1.9.5 Solicitation Addenda**

If the Department finds it necessary to supplement, modify, or interpret any portion of the solicitation package during the solicitation period, a written addenda shall be posted on the VBS and MFMP Sourcing as Addenda to this solicitation. It is the vendor's responsibility to check VBS and MFMP Sourcing periodically for any information or updates to this solicitation. The Department bears no responsibility for any resulting impacts associated with a prospective Bidder's failure to obtain the information made available through the VBS and MFMP Sourcing.

### **1.9.6 Public Opening**

Responses shall be opened on the date and at the location indicated on the Timeline of Events (Attachment G). Bidders may, but are not required to, attend. The Department may choose not to announce prices or release other materials pursuant to section 119.071(1) (b), Florida Statutes.

### **1.9.7 Phase I Qualification Stage**

The Qualification stage begins at opening of responses and ends with the posting of the list of Qualified Bidders to be invited to participate in the Online Reverse Auction (Phase II).

#### **1.9.7.1 Evaluation of Responses**

The Department shall evaluate the Bidders' Phase I submissions described in this solicitation, to identify responsive and responsible Bidders who will be invited to participate in the Online Reverse Auction. Responses that do not meet all requirements of the solicitation or fail to provide all required information, documents, or materials may be rejected as non-responsive. Bidders whose responses, past performance, or current performance do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of a Contract may be rejected as non-responsible.

### **1.9.7.2 Posting of Qualified Bidders**

The Department shall post a listing of the Qualified Bidders who will be invited to participate in the Online Reverse Auction.

### **1.9.8 Phase II Online Reverse Auction Phase**

The Online Reverse Auction phase consists of a **mandatory training** for Qualified Bidders, and a real-time on-line bidding event (Online Reverse Auction) through MFMP Sourcing. A Pricing Tool Workbook is provided as Attachment A. The Workbook depicts the four types of paper covered in this solicitation and the actual quantity of historical sales for those types of paper. The workbook is a tool to be utilized for bid submittal in the online reverse auction, and workbook bid opening.

#### **1.9.8.1 MFMP Sourcing Online Reverse Auction Mandatory Training**

A mandatory training session will be held for all Qualified Bidders according to the Timeline of Events. As part of the mandatory training session a mock Online Reverse Auction event will be held. This mock Online Reverse Auction will involve a practice Online Reverse Auction that will simulate the actual event. It will be conducted to help Qualified Bidders understand what will be expected in the actual Online Reverse Auction event. During this time, any additional technical questions on MFMP Sourcing will be addressed. Details about this practice event will be sent to all Qualified Bidders.

**Qualified Bidders that do not participate in the mandatory training session are deemed non-responsive and will not be eligible to participate in the Online Reverse Auction event.**

#### **1.9.8.2 Online Reverse Auction Event**

The Department will hold an Online Reverse Auction event on the MFMP Sourcing wherein the Qualified Bidders will be invited to submit pricing information in an active competitive auction environment.

The Bidder shall offer pricing during the Online Reverse Auction phase for the product(s) described in section 3 of this solicitation

A Bidder participating in the Online Reverse Auction phase will bid with other Qualified Bidders during a specified time frame and shall submit the price at which it offers to sell the products to the State of Florida.

### **1.9.9 Phase III Contract Award Phase**

The Contract award phase consists of the submission of Pricing Tool Workbook, Application of the Florida Business Preference, if required, and the Posting of the Notice of Intent to Award.

#### **1.9.9.1 Submission of Workbook (Detailed Prices)**

All Qualified Bidders participating in the Online Reverse Auction must submit a completed copy of the Pricing Tool Workbook (Attachment A) to the Department through MFMP Sourcing within 24 hours following the completion of the Online Reverse Auction. This document shall reflect the final prices for each item required to be charged during Contract performance. The spread of prices shall be in the proportion (weightings) as reflected in the original workbook. The Department reserves the right to reject any Pricing Workbook that does not address all items, or that reflects proportions (weightings) different than those originally provided.

#### **1.9.9.2 Application of Florida Vendor Preference (287.084, Florida Statutes).**

After the verification of the Bidders prices from Phase II, The Department shall determine if any preference is to be afforded Florida Vendors in accordance with section 287.084, Florida Statutes.

### **1.9.9.3 Electronic Posting of Notice of Intended Award**

The Department shall electronically post a Notice of Intended Award on the VBS and the MFMP Sourcing website at the time specified in the Timeline of Events. The Notice of Intended Award shall remain posted for a period of seventy-two (72) hours, not including weekends or State observed holidays. If the notice of award is delayed, in lieu of posting the notice of intended award, the Department may post a notice of the delay and a revised date for posting the notice of intended award.

### **1.9.10 Protest of Notice of Intended Award**

Any Bidder desiring to protest the Notice of Intended to Award shall file any Notice of Protest and any subsequent formal written protest with Agency Clerk, Department for Management Services, 4050 Esplanade Way, Tallahassee, FL 32399, within the time prescribed in Section 120.57(3) Florida Statutes and Chapter 28-110, Florida Administrative Code. Please copy the Procurement Officer on such filings. Failure to file a notice of protest and a formal protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

### **1.10 Contract Formation**

The Department intends to enter into a Contract with the awarded Bidder(s). No Contract shall be formed between awarded Bidder and the Department until the Department signs the Contract. No additional documents submitted by a Bidder should be incorporated in the Contract unless it is specifically identified and incorporated by reference in the attached Contract document. The Department shall not be liable for any costs incurred by a Bidder in preparing or producing its response or for any work performed before the Contract is effective.

**Balance of page intentionally left blank**

## 2 Instructions to Bidders

This section contains instructions to Bidders on how to submit a Bid. The instructions come in two parts; General Instructions and Special Instructions.

### 2.1 General Instructions

The [PUR 1001](#), The General Instructions to Bidders, is incorporated by reference and provided via the link below:

<http://www.dms.myflorida.com/content/download/2934/11780/1001.pdf>

In the event any conflict exists between the Special Instructions and General Instructions to Bidders, the Special Instructions shall prevail.

### 2.2 Special Instructions

#### 2.2.1 Special Accommodations

Any person requiring a special accommodation due to a disability should contact the Department's Americans with Disabilities Act (ADA) Coordinator at (850) 922-7535. Accommodation requests for meetings shall be made at least five workdays prior to the meeting. A person who is hearing or speech impaired can contact the ADA Coordinator by using the Florida Relay Service at (800) 955-8771 (TDD). These telephone numbers are supplied for notice purposes only.

#### 2.2.2 MFMP Registration

In order to bid, Bidders shall have a current Vendor registration and be active for "Sourcing Events" within the link: [MFMP Vendor Information Portal Website](#).

Each Bidder doing business with the State of Florida for the sale of commodities or Contractual services as defined in Section 287.012, Florida Statutes, shall register in MyFloridaMarketPlace, in compliance with Rule 60A-1.030, Florida Administrative Code, unless exempt under Rule 60A-1.030(3) Florida Administrative Code.

#### 2.2.3 How to Submit a Response

In order to respond, Bidders must also be active for "Sourcing Events" within the link: [MFMP Vendor Information Portal Website](#). Once registered, Bidders will be able to submit responses to this solicitation via the MyFloridaMarketPlace Sourcing using this link: [MFMP Sourcing 3.0 Login](#). Download the MFMP Participation Instructions to Bidder, for detailed instructions on how to participate within the MFMP Sourcing 3.0.

Include all appropriate pricing, discounts, documents, forms, files, question responses, and information responses located within the MFMP Sourcing for the solicitation in Bids. All required or requested pricing, discounts, documents, forms, files, question responses, and information responses are to be entered electronically in the MFMP Sourcing during this solicitation as indicated.

#### 2.2.4 Sourcing Tips and Training

After logging into MFMP Sourcing 3.0, "My Events" lists all events the Bidder already chose to "Join" (i.e., you intend to submit a formal response). "Public Events" lists those events associated with the Bidder's registered UNSPSC listed in their Bidder Information Portal (VIP) accounts, but



the Bidders have not yet “Joined.” Joining an event moves the event from “Public Events” to “My Events,” allows the Bidder to submit questions about the event (solicitation), and alerts Bidders to any associated updates (e.g., addenda, event edits, etc.).

To respond to a solicitation, bidders shall review and accept the electronic agreement on the “Review and Accept Agreement” page. Click the radio button next to, “I accept the terms of this agreement.”

When responding, save work frequently – at intervals less than 20 minutes. Sourcing 3.0 automatically times out after 20 minutes of inactivity. Any unsaved information may be lost when the system times out. Clicking the “Save” button within Sourcing 3.0 only saves your solicitation responses.

To transmit responses to the State, Bidders shall click “Submit Entire Response.” After clicking the “Submit Entire Response” button, Bidders are responsible to verify and validate any submitted response in Sourcing 3.0 to ensure their responses are accurate and complete prior to the bid closing time.

Bidders should allow sufficient time, prior to the Solicitation event period closing, to address any errors and resubmit revised responses.

To validate responses, please do the following before the Solicitation period ends:

Click the “Response History” link to confirm that your “submitted” response is visible, and, therefore, formally submitted.

Confirm that a status of “Accepted” displays next to your submitted response.

Click on the Reference number of your submitted bid response to review the submission.

Please check the following:

- Text boxes – Is your entire answer viewable?
- Yes/No questions – Are the displayed answers correct?

For technical assistance, contact the MFMP Customer Service Desk (CSD) at (866) 352-3776 or by email at [VendorHelp@MyFloridaMarketPlace.com](mailto:VendorHelp@MyFloridaMarketPlace.com). For additional information regarding Vendor online training or to view MFMP Sourcing training documents select the hyperlink, MFMP Vendor Toolkit.

### **2.2.5 Who May Respond**

Any distributor of cut bond paper may respond to Phase I of this solicitation. Phase I Bidders must satisfy the requirements, specifications, terms and conditions of the solicitation, and demonstrate their capability to perform a statewide Contract in the State of Florida including Customer locations statewide.

**NOTE:** Pursuant to section 607.1501, Florida Statutes, out-of-state corporations where required, must obtain a Florida Certificate of Authorization pursuant to section 607.1503, Florida Statutes, from the Florida Department of State, Division of Corporations, to transact business in the State of Florida. The Respondent out-of-state corporations agree to attain such authorization within seven business days of notice of award, should the Respondent be awarded. Website: [www.sunbiz.org](http://www.sunbiz.org)

### **2.2.6 Disclosure of Bid Contents**

Pursuant to the Public Records Act, all documentation provided to the Department as part of the ITB shall become the property of the Department and shall not be returned to the Bidder unless it is withdrawn prior to the response opening.

### **2.2.7 Mandatory Requirements or Conditions**

The State has established certain requirements with respect to responses submitted to competitive solicitations. The use of “shall”, “must”, or “will” (except to indicate futurity) in this solicitation, indicates a requirement or condition that may be mandatory. A deviation from a mandatory requirement or condition is material if, in the State’s sole discretion, the deficient response is not in substantial accord with the solicitation requirements, provides an advantage to one bidder over another, or has a potentially significant effect on the quality of the response or on the cost to the State. The words “should” or “may” in this solicitation indicate desirable attributes or conditions, but are permissive in nature.

### **2.2.8 Bidder Qualification Questions**

Phase I Bidders must submit a Yes/No response to the following Qualification Questions within the MFMP Sourcing. Phase I Bidders are to meet and respond to the qualifications identified in the following Qualification Questions in order to be considered responsive. The Department may not evaluate bids from Bidders who answer “No” to any of the Qualification Questions.

- **Does the Bidder certify that the person submitting the bid is authorized to respond to this ITB on Bidder’s behalf?**
- **Does the Bidder certify that it is not a Convicted Vendor as defined in Section 7 of the PUR 1001?**
- **Does the Bidder certify that it is not a Discriminatory Vendor as defined in Section 8 of the PUR 1001?**
- **Does the Bidder certify compliance with Section 9 of the PUR 1001?**
- **Does the Bidder certify that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List?**
- **Does the Bidder certify that it shall, if awarded, submit to the Department, at least annually, the completed signed Preferred Pricing Affidavit as required in Section 4.2.23 of this solicitation?**
- **Does the Bidder certify that all products sold to the state of Florida through the execution of this Contract will be manufactured in the United States?**
- **Does the Bidder certify that it shall, if awarded, submit quarterly to the Department a Contract Sales report, as required in Section 4.2.22.1 of this solicitation?**

- **Does the Bidder certify that they will carefully and thoroughly reviewed their bids or prices on the Pricing Tool Workbook (*Attachment A*) for accuracy and completeness?**

### **2.3 Contents of Bid**

Organize Phase I Bids in parts as directed below. Submit all the information requested in each part below through the [MFMP Sourcing](#). Failure to submit all of the requested information in sections 2.3.1 through 2.3.4 (Part 1 through Part 4) below, in the format required under this ITB may result in a determination of Bidder non-responsiveness. Label each response with the appropriate section number (and part number) below:

#### **2.3.1 Part 1 - Company Information**

Complete the Ordering Information Form (Attachment F) to include all of the below:

- **Company name and address.**
- **Name, title, phone number and email of primary and secondary person within the company responsible for administering the Contract.**
- **Federal ID Number**
- **Internet website address**

#### **2.3.2 Part 2- Relevant Past Performance**

Provide a synopsis of the five most recent Contracts that have a value of \$1M or greater (which are similar to this ITB) in which your organization provided cut bond paper. Include the following information:

**2.3.2.1 Contract number;**

**2.3.2.2 Term of the Contract;**

**2.3.2.3 The name and telephone number of the Customer’s contact person;**

**2.3.2.4 Volume of cut bond paper sold by your organization under the Contract;**

**2.3.2.5 The final overall sales received by your organization under the Contract.**

#### **2.3.3 Part 3 – Other information**

##### **2.3.3.1 Out of State Preference Letter from Attorney (if applicable)**

Any Bidder who states that its “principal place of business” is outside of this state shall submit with its bid a written opinion of an attorney at law, licensed to practice law in that **foreign** state, that contains information explaining the preferences, any or none, granted by the law of that state to its own business entities whose principal place(s) of business are in that foreign state in the letting of any or all public Contracts. For the purpose of this ITB, “principal place of business” means the state in which the Bidder’s high level officers direct, control, and coordinate the Bidder’s activities.

### **2.3.3.2 Certification of Drug-Free Workplace (Attachment C)**

Bidder must download and complete the Certification of Drug-Free Workplace found in Section 5 (Attachment C).

### **2.3.3.3 Preferred Pricing Affidavit (Attachment D)**

Bidders must download and complete the Preferred Pricing Affidavit found in Section 5 (Attachment D).

### **2.3.4 Part 4 - Price Tool Workbook (Attachment A) To be submitted in Phase III**

Download the Pricing Tool Workbook (Attachment A) and the Savings/Price Reduction (attachment E) and then complete and upload it within the MFMP Sourcing, in accordance with the Timeline of Events (Attachment G).

#### **2.3.4.1 Completing the Pricing Tool Workbook**

The Pricing Tool Workbook is designed to an aid to Qualified Bidders to facilitate calculations for the on-line Online Reverse Auction event Phase II and a verification of final prices in Phase III. The Phase III Bidder shall only input information in the grey shaded boxes. Each Product and quantity break contains a cell (highlighted in grey) for the Phase III Bidder to enter in the prices that they are offering for the various products and quantities. This price is multiplied (auto-filled) by the estimated number of cartons to give an estimated spend by carton for the various carton quantities. The total spend by carton for each Product are added together (multiplied) to populate the Total Bid Cell. Phase III Bidders choosing not to provide pricing for all products and quantity breaks will be deemed nonresponsive. Attachment A, Pricing Tool Workbook, establishes pricing for the Products to be awarded for the term of the Contract and any renewals. The Contractor shall not exceed this pricing when providing Products under any resultant Contract. Total pricing should be equal to or reasonably rounded to the vendor's final bid submitted during the Online Reverse Auction phase of the ITB. Phase III Bidders are required to submit their pricing for all items and volumes listed in the workbook.

#### **2.3.4.2 Savings/Price Reduction (Attachment E)**

The Phase III Bidder is required to furnish the percent (%) savings in prices offered compared to retail, list, published or other usual or customary prices that would be paid by the purchaser without the benefit of a Contract resulting from this bid. Attachment E (PUR 7064), Savings/Price Reductions is provided to facilitate the Bidders response to this requirement. The Bidder is required to submit this form after the Online Auction, during Phase III, and the Contractor shall submit this form at the time of any renewals or extensions. Savings/Price Reduction Form found in Section 5 (Attachment E).

### **2.3.5 Online Reverse Auction General Rules**

During the Online Reverse Auction, the Qualified Bidders from Phase I will submit a single price that will represent a composite of the four different types and variations of products described in Section 3 of this solicitation. A Pricing Tool Workbook (Attachment A) has been developed to assist the Qualified Bidder. The Workbook includes actual historical quantities ordered for each type and variation. The Workbook will be used to facilitate bidding and will be submitted during the Contract award phase in accordance with the date and time listed in the Timeline of Events (see Attachment G).

The Online Reverse Auction phase will be a sealed bid format; no pricing information will be displayed during the Online Reverse Auction event. The participating Qualified Bidders from Phase

I will receive their rank relative to the best bid during the Online Reverse Auction event. The participating Qualified Bidders will see the “rank” of their bid only. All participating Bidders in Phase II will remain anonymous through use of MFMP Sourcing Online Reverse Auction event. During the Online Reverse Auction event, a Bidder may submit a bid as many times as the Bidder desires, within the time limit provided. However, only the last bid will be accepted.

Throughout the live Online Reverse Auction event, Bidders will have real-time access to phone support to answer all technical questions related to MFMP Sourcing. However, it is the Bidder’s responsibility to participate and ask questions.

The Department maintains the right to restrict a Bidder’s access to the system and their ability to bid for failing to comply with all requirements of this solicitation.

#### **2.3.5.1 Bid Decrement Rule**

The maximum starting bid for the Online Reverse Auction event will be \$10,200,000.00. Every subsequent bid made will be governed by a minimum bid decrement. In order for a bid to be accepted by MFMP Sourcing, it must be less than the previous bid submitted by that vendor and by at least the pre-defined decrement amount. MFMP Sourcing will reject any bids placed that do not decrease by at least this decrement. Bid decrements submitted may also be greater than the required minimum amount.

**The minimum bid decrement is \$100,000.00**

#### **2.3.5.2 Bid Improvement**

When submitting bids, it is not required that a bid be lower than the overall best bid to be accepted. It is required that each bid submitted improve upon the previous bid by that Bidder (by the minimum bid decrement or greater). For example, if the best overall bid for a lot is \$500,000, and the last bid a Bidder placed was \$600,000, given a minimum bid decrement of \$100,000, the next bid for that Bidder would need to be \$500,000 or lower. This rule is designed to allow a Bidder to submit its best pricing to the Department. A Bidder can reduce their bid by more than the minimum bid decrement.

#### **2.3.5.3 Timing Rule**

The Online Reverse Auction Event is scheduled to last 45 minutes. The Online Reverse Auction event will start at the date and time according to the Timeline of Events. Vendors will participate on-line, via their own computer.

##### **2.3.5.3.1 Automatic Extension Rule**

If a bid is entered into the system within five minutes of the scheduled Online Reverse Auction close time, the scheduled close time will be reset to five minutes. The event close time will be reset to five minutes with each bid placed after the five minute mark. It is not required that a bid must be the best overall bid to extend the event, any bid placed will trigger an extension.

There will be an unlimited number of extensions; the close time will continue to extend as long as bidding activity occurs during the extension periods. Time will be tracked on the upper-right corner of the main section within MFMP Sourcing.

##### **2.3.5.3.2 Pauses and Extensions**

The Department reserves the right to pause the bidding (e.g., due to technical difficulties, etc.) at any time or to extend the bidding when determined to be in the best interest of the State.

## **2.4 Alternate Responses**

Bidder may not submit more than one Pricing Tool Workbook in Phase III of the solicitation.

## **2.5 Evaluation Criteria**

The Department shall evaluate responses bids from Qualified Bidders in Phase I. Responses that do not meet all requirements of the solicitation or fail to provide all required information, documents, or materials may be rejected as non-responsive. Bidders whose responses, past performance, or current status do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of a Contract may be rejected as non-responsible. The Department reserves the right to determine which Responses meets the requirements, specifications, terms, and conditions of the solicitation, and which Bidders are responsive and responsible.

## **2.6 Basis of Award**

Awards shall be made to one (1) responsive, responsible Bidder that offers the lowest total evaluated bid during the Online Reverse Auction. An evaluated bid is defined as a bid that is (1) supported by an accurately completed Pricing Tool Workbook and (2) is eligible for award consistent with this solicitation.

## **2.7 Preference to Florida Vendors**

If the lowest bid is submitted by a Bidder whose principal place of business is located outside the State of Florida, preference shall be applied consistent with section 287.084, Florida Statutes.

## **2.8 Firm Response**

The Department should make an award within sixty (60) days after the date of the opening of the Pricing Tool Workbook, 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 Department awards the Contract or the Department receives from the bidder written notice that the response is withdrawn. Any response that expresses a shorter duration should, in the Department's sole discretion, be accepted or rejected.

## **2.9 Modification or Withdrawal of Bid**

Bidders are responsible for the content and accuracy of their responses and bids through all Phases of the competition. Bidders may not modify or withdraw their responses at any time after to the initial opening identified in the timeline of events (Phase I). For instructions on how to modify responses within the MFMP sourcing, please visit MFMP University for Vendors and review the recorded online or job aid. [MFMP Vendor Toolkit](#). For technical assistance please email the MFMP Help Desk or call (866) 352-3776.

## **2.10 Cost of Response Preparation & Independent Preparation**

The costs related to the development and submission of any response to this ITB is the full responsibility of the Vendor and is not chargeable to the Department. A Bidder shall not, directly or indirectly, collude, consult, communicate or agree with any other Vendor or Bidder as to any matter related to the response each is submitting. Additionally, a Bidder shall not induce any other Bidder to modify, withdraw, submit or not submit a response.

## **2.11 Tie Bids**

In the event that the Department's evaluation results in identical evaluations of bids for the lowest total price, the Department shall select Bidder(s) based on the criteria identified in Rule 60A-1.011,

Florida Administrative Code.

### **2.12 Contract Minor Irregularities/Right to Reject**

The Department reserves the right to accept or reject any and all responses, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so shall serve the State's best interests. The Department may reject any response not submitted in the manner specified by the solicitation documents.

### **2.13 Redacted Submissions**

The following section supplements section 19 of the [PUR 1001](#). If Bidder considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, proprietary, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, Bidder shall mark the document as "Confidential" and 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 Bidder's name on the cover, and shall be clearly titled "Redacted Copy." The Redacted Copy should only redact those portions of material that the Bidder claims is confidential, proprietary, trade secret or otherwise not subject to disclosure.

In the event of a request for public records pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents that are marked as confidential are responsive, the Department shall provide the Redacted Copy to the requestor. If a requestor asserts a right to the Confidential Information, the Department shall notify the Bidder such an assertion has been made. It is the Bidder's responsibility to assert that the information in question is exempt from disclosure under Chapter 119, Florida Statutes, or other applicable law. If the Department becomes subject to a demand for discovery or disclosure of the Confidential Information of the Bidder in a legal proceeding, the Department shall give the Bidder prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). The Bidder shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

By submitting a bid, the Bidder agrees to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Bidder's determination that the redacted portions of its reply are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If Bidder fails to submit a redacted copy of information it claims is confidential, the Department is authorized to produce the entire documents, data, or records submitted to the Department in answer to a public records request for these records.

### **2.14 Additional Information**

By submitting a bid, Bidder certifies that it agrees to and satisfies all criteria specified in the ITB. The Department may request, and Bidder shall provide, supporting information or documentation. Failure to supply supporting information or documentation as required and requested shall result in disqualification of the bid.

### 3 Description of Scope

#### 3.1 Scope

The Paper: Office, Virgin and Recycled Content Commodity (Products) offered under the Contract shall be classified under four (4) Groups, which are listed and described as follows:

##### 3.1.1 Type I, Xerographic, Dual Purpose

##### 3.1.2 Type II, Xerographic, Dual Purpose, Recycled

##### 3.1.3 Type III, Xerographic, Color, Dual Purpose, Recycled

##### 3.1.4 Type IV, Laser Print

The Contract is intended to cover only those Products generally used by the State of Florida as listed and described herein, and does not include all varieties of paper Products that are commercially available. All Products sold to the State of Florida during the execution of the Contract are required to be manufactured in the United States. The Department in its sole discretion shall determine the eligibility and acceptability of all Products available and included under the Contract.

#### 3.2 Product Specifications and Standards

The Product Specifications and Standards are based on the known needs of Customers and best information available to the Department at the time the Product Specifications and Standards were created. The following Specifications and Standards form a part of the overall Technical Specifications except as modified or noted herein.

##### 3.2.1 Type I, Xerographic, Dual Purpose

- Specifications

Basis Weight	Colors	Opacity	Target Brightness	Smoothness	Caliper	PC Fiber
20lb.	White	88	92	160	4.0	-

- Cut Sizes

Item	Size	Sheets Per Ream	Reams Per Case	Cases Per Pallet
1	8½" X 11"	500	10	40
2	8½" X 11", 3 Hole Punch	500	10	40
3	8½" X 14"	500	10	30
4	11" X 17"	500	5	40



### 3.2.2 Type II, Xerographic, Dual Purpose; Recycled Content

- Specifications

Basis Weight	Colors	Opacity	Target Brightness	Smoothness	Caliper	PC Fiber
20lb.	White	88	92	160	4.0	30%

- Cut Sizes

Item	Size	Sheets Per Ream	Reams Per Case	Cases Per Pallet
5	8½" X 11"	500	10	40
6	8½" X 11", 3 Hole Punch	500	10	40
7	8½" X 14"	500	10	30
8	11" X 17"	500	5	40

### 3.2.3 Type III, Xerographic, Color, Dual Purpose, Recycled Content

- Specifications

Basis Weight	Colors	Opacity	Target Brightness	Smoothness	Caliper	PC Fiber
20lb.	Pastels			160	4.0	30%

- Cut Sizes

Item	Size	Sheets Per Ream	Reams Per Case	Cases Per Pallet
9	8½" X 11"	500	10	40
10	8½" X 11", 3 Hole Punch	500	10	40
11	8½" X 14"	500	10	30
12	11" X 17"	500	5	40

### 3.2.4 Type IV, Laser Print

- Specifications

Basis Weight	Colors	Opacity	Target Brightness	Smoothness	Caliper	PC Fiber
24lb.	White	90	92	160	4.6	-

- Cut Sizes

Item	Size	Sheets Per Ream	Reams Per Case	Cases Per Pallet
13	8½" X 11"	500	10	32

### 3.3 Testing

Samples of delivered Customer Products may be selected at random by the Customer and tested for compliance with the requirements, specifications, terms, and conditions.

### 3.4 Warranty

The Manufacturer's standard warranty shall cover all Products sold under the Contract. The Manufacturer's standard warranty is required to provide coverage against defective material,

workmanship, and failure to perform in accordance with the specifications and required performance criteria. The Manufacturer's standard warranty coverage shall be identical to or exceed the most inclusive of those normally provided for the Products specified herein that are sold to any state or local governments.

Should the Manufacturer's standard warranty conflict with any requirements, specifications, terms, or conditions of the Contract, the Contract requirements, specifications, terms and conditions shall prevail. The Manufacturer's standard warranty terms and conditions are not part of the Contract requirements, specifications, terms, and conditions.

Delivery of non-conforming Products, which are not remedied as required herein, may be cause for default proceedings and / or Contract termination.

### **3.5 Transportation and Delivery**

Deliveries shall be within the following timeframes unless otherwise agreed to, in writing, by the ordering agency:

5 - 99 Cartons	10 Working Days ARO
100 - 799 Cartons	20 Working Days ARO
More than 800 Cartons (Truckload)	30 Working Days ARO

ARO = After Receipt of Order

All Products shall be packed to insure safe delivery to destination. Industry standard cartons shall be constructed to insure acceptance by common or other carriers, for transportation to the point of delivery.

For all Products, the standard packaging shall be securely wrapped in moisture resistant material at the mill and with content labeling on the end of each ream. Carton containers are to be corrugated and industry standard. Packing quantities shall be as follows: 8-1/2" x 11" and 8-1/2" x 14" sheet sizes shall be ten (10) reams per carton. 11" x 17" sheet sizes shall be five (5) reams per carton.

Unless otherwise specified each ream or package shall be end-labeled to show brand, size, color, and substance. Each carton shall be labeled to show quantity (number of reams and sheets) contained therein, name of Contractor and Contract and purchase order numbers. Paper specified to have recycled content shall be labeled to indicate the recycled content and that the Product is manufactured with recovered materials.

When requested by the Customer, orders for 10 or more cartons must be delivered on expendable pallets at no extra cost. Orders of 10 or more cartons must also be shrink-wrapped at no extra cost. Permanent wooden pallets shall be used to ship to any Customer upon request. The Customer must specify on the Purchase Order if wooden pallets are requested.

### **3.6 Minimum Order Quantity**

The minimum order quantity shall be 5 cartons consisting of any combination of products as awarded on this contract.

### **3.7 Delivery Requirements**

There are three types of deliveries; dockside/street delivery, inside delivery and special inside delivery. Prices shall include all charges for packing, handling, freight, distribution, and delivery, unless special inside delivery is requested by the Customer.

#### **3.7.1 Dockside/Street Delivery**

Dockside/Street delivery shall consist of the delivery person offloading the ordered Products from the delivery vehicle to the loading dock (when available), or on the street level of the delivery location where the receiving party takes possession of the delivered Products. Products shall not be left exposed to the outside elements.

#### **3.7.2 Inside Delivery**

Inside delivery shall consist of the delivery person offloading the ordered Products from the delivery vehicle to a specific destination inside of the building. The Customer requiring inside delivery shall specify the Customer contact person and the exact delivery location at the time of placing an order. Inside delivery may include orders to be screened or subjected to security measures at the delivery location. The Contractor must be made aware of these conditions on the Purchase Order.

#### **3.7.3 Special Inside Delivery**

Special inside delivery shall consist of inside delivery with exceptions that do not qualify as usual. These exceptions include the following:

- Delivery to an area where the use of conventional material handling equipment is not feasible.
- Delivery that requires opening cartons and stacking reams on shelves.
- Delivery that requires cartons to be carried up flights of stairs.

#### **3.7.4 Delivery Fee**

The Contractor may charge a delivery fee for Customer requesting special inside delivery. The delivery fee shall be assessed on a case by case basis and may be in the form of a flat fee, a fee per carton, a fee per trip required by the delivery person, or other basis mutually agreed by the Customer upon issuance of the order. At no time shall the delivery fee exceed \$1.25 per carton. The Contractor shall provide the Customer requiring special inside delivery a fee estimate upon receipt of the Purchase Order. No additional fees will be applied for either Dockside/Street or Inside deliveries.

### **3.8 Acceptance**

Transportation and delivery of the Product does not constitute Acceptance for the purpose of payment. Final Acceptance and authorization of payment shall be given by the Customer only after a thorough inspection indicates that the Product is undamaged and meets the Contract requirements, specifications, terms, and conditions. Should the delivered Product be damaged or differ in any respect from the Contract requirements, specifications, terms, and conditions, payment shall be withheld until such time as the Contractor completes the required, Customer approved, corrective action.

## 4 Contract Conditions

This section contains conditions which shall be complied with during the performance of this Contract. The conditions come in two parts, general conditions and special Contract requirements.

### 4.1 General Contract Requirements

The General Contract Conditions, [PUR 1000](#) is incorporated by reference and provided via a link below.

<http://www.dms.myflorida.com/content/download/2933/11777/1000.pdf>

### 4.2 Special Contract Requirements

The Special Contract Requirements are provisions that relate directly to the performance of this Contract.

#### 4.2.1 Lobbying Disclosure

The company shall comply with the provisions of section 216.347, Florida Statutes, which prohibits the expenditure of Contract funds for the purpose of lobbying the Legislature or a state agency.

#### 4.2.2 Financial Consequences for Nonperformance

The State reserves the right to withhold payment or implement other appropriate remedies, such as Contract termination or nonrenewal, when the Contractor has failed to perform under or comply with the provisions of this Contract. When or if the Contractor fails to perform or comply with provisions of this Contract, the Contractor has ten (10) calendar days from receipt of Complaint to Vendor Form (PUR 7017) to comply as instructed within the notice. An amount of \$500.00 may be assessed for each day the Contractor is delinquent after the ten (10) day notice period ends, and that amount may be withheld from a Contractor's invoice. The rights and remedies of the State in this paragraph are not considered penalties and are in addition to any other rights and remedies provided by law.

#### 4.2.3 Price Adjustment

Price may be adjusted annually, beginning 12 months after the Contract effective date based on the percent change (up or down) of the combined Paper Manufacturing (Series ID PCU322) and Truck Transportation of Freight (Series ID WPS3012) Producers Price Indexes (PPI). Price adjustments correlate with the PPI for the Series ID's in the table below and as published by the Bureau of Labor Statistics, in the Department of Labor, Washington, DC 20212. These reports are accessible at the following website: <http://www.bls.gov/data/>. When requesting a price increase, the Contractor must submit a justification in writing to the Contract Manager detailing the reasons for the price adjustment request and demonstrating the calculable change in PPI over the last 12 months of the Contract that supports a price adjustment. The exact website for WPS3012 is [http://data.bls.gov/timeseries/WPS3012?output\\_view=pct\\_1mth](http://data.bls.gov/timeseries/WPS3012?output_view=pct_1mth). The exact website for PCU322 is [http://data.bls.gov/timeseries/PCU322---322---?data\\_tool=XGtable](http://data.bls.gov/timeseries/PCU322---322---?data_tool=XGtable).

The requested adjustment for a price increase may not exceed the percentage change of the PPI the preceding twelve months prior to the adjustment. The Department reserves the exclusive right to accept or reject any request for price adjustment. Price adjustments may be effective only upon written approval by the Department and may not be applied retroactively.

The Department reserves the right to request price decreases at any time during the term of the Contract if it's found to be in the best interest of the State.

#### **4.2.4 Compliance with Laws, Rules, Codes, Ordinances, and Licensing Requirements**

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. For example, Chapter 287 Florida Statutes, and Rule Chapter 60A of the Florida Administrative Code govern the Contract. The Contractor shall comply with Section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of any laws, rules, codes, ordinances, or licensing requirements may be grounds for Contract termination or nonrenewal of the Contract.

#### **4.2.5 Insurance Requirements**

To the extent required by law, the Contractor shall be self-insured against, or shall secure and maintain during the life of the Contract, Worker's Compensation Insurance for all its employees connected with the work of this project and, in case any work is subcontracted, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting Contract are covered by the Contractor's self-insurance program. Such self-insurance or insurance coverage shall comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Contractor under the resulting Contract and any class of employees performing the hazardous work is not protected under Worker's Compensation statutes, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.

The Contractor shall secure and maintain Commercial General Liability insurance including bodily injury, property damage, personal & advertising injury and Products and completed operations. This insurance shall provide coverage for all claims that may arise from the services and/or operations completed under the Contract, whether such services or operations are by the Contractor or anyone directly, or indirectly employed by them. Such insurance shall include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of the resulting Contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting Contract.

All insurance policies shall be with insurers licensed or eligible to transact business in the State of Florida. The Contractor's current certificate of insurance shall contain a provision that the insurance shall not be canceled for any reason except after thirty (30) days written notice to the Department's Contract Manager.

The Contractor(s) shall submit insurance certificates evidencing such insurance coverage prior to execution of a Contract with the Department.

#### **4.2.6 Notice of Legal Actions**

The Contractor shall notify the Department of any legal actions filed against it for a violation of any laws, rules, codes ordinances, or licensing requirements within 30 days of the action being filed. The Contractor shall notify the Department of any legal actions filed against it for a breach of a Contract of similar size and scope to this Contract within 30 days of the action being filed. Failure

to notify the Department of a legal action within 30 days of the action may be grounds for termination or nonrenewal of the Contract.

## **4.2.7 Public Records**

### **4.2.7.1 Access to Public Records**

The Contractor shall allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from Article I, Section 24(a), Florida Constitution or section 119.07(1), Florida Statutes. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access as required in this section. If, under this Contract, the Contractor is providing services, the Department may unilaterally cancel the Contract for refusal by the Contractor to allow access to all public records, including documents, papers, letters, or other material made or received by the Contractor 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.

**4.2.7.1.1** If, under this Contract, the Contractor is providing services and is acting on behalf of a public agency as provided by section 119.0701(1)(b), Florida Statutes, the Contractor shall:

**4.2.7.1.2** Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

**4.2.7.1.3** Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

**4.2.7.1.4** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

**4.2.7.1.5** Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

### **4.2.7.2 Protection of Trade Secrets or Other Confidential Information**

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("Contract-related materials") to be trade secret under section 812.081, Florida Statutes, or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

If the Department receives a public records request for Contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the Contract-related materials not designated as "confidential." If the requester asserts a right to examine Contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding to and resolving all claims for access to Contract-related materials it has designated "confidential."

If the Department is served with a request for discovery of Contract-related materials designated “confidential,” the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing, the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated “confidential” only if the Contractor fails to take appropriate action, within timeframes established by statute and court rule, to protect the materials designated as “confidential” from disclosure.

The Contractor shall protect, defend, and indemnify the Department for claims, costs, fines, and attorney’s fees arising from or relating to its designation of Contract-related materials as “confidential.”

#### **4.2.8 Retention of Records**

Contractor shall retain sufficient documentation to substantiate claims for payment under the Contract, and all other records made in relation to the Contract, for five (5) years after expiration or termination of the Contract.

#### **4.2.9 Annual Appropriations**

The State’s performance and obligation to pay under this Contract are contingent upon an annual appropriation by the Legislature.

#### **4.2.10 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 5 years or the term of the Contract, whichever period is longer. Any renewal shall specify the renewal price, which will be the pricing provided in the original quote with any approved PPI pricing adjustments factored in. The renewal shall be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

#### **4.2.11 Cancellation**

The Department may unilaterally cancel this Contract for refusal by the service provider to comply with this section by not allowing public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from Article 1, Section 24(a), Florida Constitution and Chapter 119.07(1), Florida Statutes.

#### **4.2.12 Intellectual Property**

The parties do not anticipate that any Intellectual Property shall be developed as a result of this Contract. However, any Intellectual Property developed as a result of this Contract shall belong to and be the sole property of the state. This provision shall survive the termination or expiration of this Contract.

#### **4.2.13 Gifts**

The Contractor agrees that it shall not offer to give or give any gift to any State of Florida employee. This Contractor shall ensure that its sub-Contractors, if any, shall comply with this provision.

#### **4.2.14 Vendor Ombudsman**

A Vendor Ombudsman, whose duties include acting as an advocate for Bidders who may be experiencing problems in obtaining timely payment(s) from a state agency, may be contacted at

(850) 413-5516, or by calling the Department of Financial Services Consumer Hotline at 1-800-342-2762.

#### **4.2.15 Monitoring by the Department**

The Contractor shall permit all persons who are duly authorized by the Department to inspect and copy any records, papers, documents, facilities, goods, and services of the Contractor that are relevant to this Contract, and to interview clients, employees, and sub-Contractor employees of the Contractor to assure the Department of satisfactory performance of the terms and conditions of this Contract. Following such review, the Department shall deliver to the Contractor a written report of its finding, and may direct the development, by the Contractor, of a corrective action plan. This provision shall not limit the Department's termination rights.

#### **4.2.16 Cooperation with the Inspector General**

Pursuant to section 20.055(5), Florida Statutes, Contractor and any subcontractors understand and will comply with their duty to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

#### **4.2.17 Scrutinized Company List**

Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), Florida Statutes, Contractor agrees the Department may immediately terminate this Contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the Contract.

#### **4.2.18 Business Review Meetings**

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department shall provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contract being found in default and termination of the Contract by the Department or nonrenewal of the Contract.

#### **4.2.19 E-Verify**

Pursuant to State of Florida Executive Order Number 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the Contract term. Also, Contractor shall include in related subcontracts a requirement that sub-Contractors performing work or providing services pursuant to the Contract utilize the E-Verify system to verify employment of all new employees hired by the sub-Contractor during the Contract term.

#### **4.2.20 Subcontracting**

The Contractor shall not subcontract, assign, or transfer any work identified under this solicitation, with the exception of those subcontractors identified in the Contractor's bid, without prior written consent of the Department.



The Contractor is responsible for all work performed under the Contract resulting from this solicitation. No subcontract entered into by the Contractor for performance of work required under the Contract, shall in any way relieve the Contractor of any responsibility for the performance of duties under the Contract. The Contractor shall assure that all tasks related to the subcontract are performed in accordance with the terms of the Contract.

The Department supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this solicitation enthusiastically embrace diversity. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. Contractor can contact the Office of Supplier Diversity at (850)487-0915 for information on minority bidders who may be considered for subcontracting opportunities.

#### **4.2.21 Performance Qualifications**

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

Contractor shall be prepared, if requested by the Department, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the Contractor for the production, distribution, and servicing of the equipment bid. If the Department determines that the conditions of the solicitation documents are not complied with, or that the equipment or parts 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 Department may reject the response or terminate the Contract. Contractor may be disqualified from receiving awards if Contractor or anyone in Contractor'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 Department to make an investigation either before or after award of the Contract, but should the Department elect to do so, Contractor is not relieved from fulfilling all Contract requirements.

#### **4.2.22 Contract Reporting**

##### **4.2.22.1 Contract Quarterly Sales Report (Contract Deliverable)**

The Contractor agrees to submit a Quarterly Sales Report (Attachment B) on a quarterly basis to the DMS Contract Manager. Initiation and submission of the Quarterly Report is the responsibility of the Contractor without prompting or notification from the DMS Contract Manager. A quarterly report is required even if Contractor has zero sales to report for that quarter.

Quarterly Reporting periods should coincide with the State Fiscal Year (1 July – 30 June) and should begin the quarter following Contract execution. Reports are due ten (10) working days after the end of the reporting period. Reporting requirements may be modified at the Departments' discretion.

#### **4.2.22.2 Transaction Fee Reports**

The awarded Vendor(s) will be required to pay the required transaction fees as specified in Section 14 of the PUR 1000, unless an exemption has been requested and approved prior to the award of the Contract pursuant to rule 60A-1.032 of the Florida Administrative Code.

The Bidder is required to submit monthly Transaction Fee Reports in electronic format. Reports are due ten (10) working days after the end of the reporting period. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and Bidder training presentations available online at the Transaction Fee Reporting and Bidder Training subsections under Bidders on the MFMP website: [MFMP Transaction Fee and Reporting](#). Assistance is also available with the Transaction Fee Reporting System from the MFMP Customer Service Desk at the email address hyperlink: [MFMP Customer Service Desk Email](#), or telephone 866-FLA-EPRO (866-352-3776) between the hours of 8 AM to 6 PM Eastern Time.

#### **4.2.22.3 Savings/Price Reductions (Attachment E) - Post Award**

Contractor shall submit one (1) accurately completed Savings/Price Reductions form (Attachment E) with any change in Contract status (e.g. Contract renewal or extension, price change, etc.). The Savings / Price Reductions form shall be used to verify the Savings / Price Reductions being offered. The Savings / Price Reductions form shall be provided to the Department's Contract Manager.

#### **4.2.22.4 Diversity Reporting**

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority, women, and veteran owned business enterprises in the economic life of the State. The State of Florida Mentor Protégé Program connects minority-, women-, and 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 or email: [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com).

Upon request, the Contractor shall report to the Department, spend with certified and other minority business enterprises. These reports shall include the period covered, the name, minority code and Federal Employer Identification Number of each minority Bidder utilized during the period, Commodities and services provided by the minority business enterprise, and the amount paid to each minority Bidder on behalf of each purchasing agency ordering under the terms of this Contract.

#### **4.2.23 Preferred Pricing Affidavit Requirement**

The Department shall provide the Preferred Pricing Affidavit, (Attachment D), for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the preferred pricing provision in section 4(b) of the [PUR 1000](#) form. The Contractor agrees to submit to the Department, at least annually, the completed Preferred Pricing Affidavit.

#### **4.2.24 Contract Termination**

The Department may terminate the Contract if the Contractor: 1.) fails to comply with all terms and conditions of this Contract; 2.) fails to produce each deliverable within the time specified by the Contract; or, 3.) fails to abide by any statutory, regulatory, or licensing requirement. Rule 60A-

1.006(3), Florida Administrative Code, governs the procedure and consequences for default. The rights and remedies of the Department in this clause are in addition to any other rights and remedies provided by law or under the Contract. Upon receipt of notice of termination, the Contractor shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

#### **4.2.25 Force Majeure**

Except for the payment of money due, neither party shall be deemed in breach or default of this Contract in the event that either party fails to perform pursuant to the terms and conditions of the Contract and the failure is caused by, or is in connection with, force majeure. The party suspending performance shall give prompt notice to the other party and shall attempt to cure promptly the cause for such suspension. Upon cessation of the cause for suspension, performance shall resume (or commence) as soon as reasonably practicable, unless otherwise agreed to by the parties. Notwithstanding any other provision of this Contract the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be entirely within the discretion of the particular party involved.

For purposes of this Contract, the term "force majeure" shall mean acts or events beyond the control of the parties, including, but not limited to, acts of God, strikes, lockouts, or other industrial disturbances, riots, epidemics, landslides, floods, fires, washouts, arrests and restraints, civil disturbances, explosions, breakage of or accidents to pipe lines, failure of equipment or, compliance with acts, orders, regulations or requests of any federal, state or local governmental authority, whether or not of the same class or kind, reasonably beyond the control of either party and which, by exercise of due diligence, such party is unable to overcome.

In the event a force majeure condition exists, or the potential exists for such condition, the Contractor shall inform the Department of the problem at the earliest practical time and present a plan for return to normal service.

#### **4.2.26 Additional Provisions**

The provisions of paragraphs 287.058(1)(a) and (b), Florida Statutes, are hereby incorporated by reference.

**Balance of page intentionally left blank**

## 5 Attachments

Attachment A	<b>Pricing Tool Workbook (section 2.3.4)</b>
Attachment B	<b>Quarterly Sales Report (section 4.2.22.1)</b>
Attachment C	<b>State of Florida Drug-Free Workplace Certification (section 2.3.3.2)</b>
Attachment D	<b>Preferred Pricing Affidavit (section 2.3.3.3)</b>
Attachment E	<b>Savings/Price Reduction Form (section 2.3.4.2)</b>
Attachment F	<b>Ordering Information Form (section 2.3.1)</b>
Attachment G	<b>Timeline of Events (section 1.5)</b>

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

**Contents**

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

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

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

2. **General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.
3. **Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:
  - an electronic signature on the response, generally,
  - an electronic signature on any form or section specifically calling for a signature, and
  - an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.
4. **Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:
  - Technical Specifications,
  - Special Conditions and Instructions,
  - Instructions to Respondents (PUR 1001),
  - General Conditions (PUR 1000), and
  - Introductory Materials.

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

5. **Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within

the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

- 6. Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.
- 7. Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

  - submitting a bid on a contract to provide any goods or services to a public entity;
  - submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
  - submitting bids on leases of real property to a public entity;
  - being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
  - transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.
- 8. Discriminatory Vendors.** An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

  - submit a bid on a contract to provide any goods or services to a public entity;
  - submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
  - submit bids on leases of real property to a public entity;
  - be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
  - transact business with any public entity.
- 9. Respondent's Representation and Authorization.** In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent

cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.



- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

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

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

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the

product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

- 12. Public Opening.** Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).
- 13. Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://www.myflorida.com/apps/vbs/vbs\\_www.main\\_menu](http://www.myflorida.com/apps/vbs/vbs_www.main_menu). If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.
- 14. Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.
- 15. Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.
- 16. Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.
- 17. Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a

respondent in preparing or producing its response or for any work performed before the Contract is effective.

**18. Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

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

**20. Protests.** Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

**21. Limitation on Vendor Contact with Agency During Solicitation Period.** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

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

**Contents**

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

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

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

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

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

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

- 4. Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.
- (a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
  - (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
  - (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
  - (d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.
  - (e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.
- 5. Additional Quantities.** For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.
- 6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted

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

- 7. Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
- 8. Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.
- 9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
- 10. Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
- 11. Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.
- 12. Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor

shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

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

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

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

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

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

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



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

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

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

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

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

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

Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

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

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

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

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

Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

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

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

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

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

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

and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

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

designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

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

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

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

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



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

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

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

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

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

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