



**Agency Alternate Contract Source (ACS)
No. DEP-GSA-2023
For
General Services Administration Multiple Award Schedule**

This Agency Alternate Contract Source No. DEP-GSA-2023, General Services Administration Multiple Award Schedule (Agreement), is between the Department of Management Services (DMS), an agency of the State of Florida (State), located at 4050 Esplanade Way, Tallahassee, FL 32399; and the Department of Environmental Protection (DEP), also an agency of the State, located at 3800 Commonwealth Blvd., MS #93, Tallahassee, FL 32399; collectively referred to herein as the "Parties."

WHEREAS, DMS is authorized by section 287.042(16), Florida Statutes:

To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined by the Secretary of Management Services in writing to be cost-effective and the best value to the state, to enter into a written agreement authorizing an agency to make purchases under such contract;

WHEREAS, the federal government, through its General Services Administration, competitively procured the contracts available under the Multiple Award Schedule (MAS);

WHEREAS, the federal government, through 40 U.S.C. § 502, provided for use of the MAS by state governments; and

WHEREAS, the DMS Secretary evaluated the MAS and determined that use of the MAS is cost-effective and the best value to the State.

NOW THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term and Effective Date.

This Agreement will become effective on June 1, 2023, or on the date signed by all Parties, whichever is later. The Agreement will expire on June 30, 2030, unless terminated earlier or renewed by the Parties.

2. Scope.

This Agreement includes the entire scope of the products and services available to DEP under the Cooperative Purchasing Program for the MAS.

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3. Purchases off this Agreement.

Upon execution of this Agreement, DEP may purchase products and services from vendors available on the MAS, provided DEP complies with the following:

- a. State Term Contracts. Prior to requesting any quotes or making any purchase off the MAS, DEP shall determine in writing that the contractual services or commodities are not available on a State Term Contract, as defined in section 287.012, Florida Statutes.
- b. Other Alternate Contract Sources. Prior to requesting any quotes or making any purchase off the MAS, DEP shall determine in writing that the contractual services or commodities are not available on another Alternate Contract Source established pursuant to section 287.042(16) or section 287.057(3)(b), Florida Statutes.
- c. Requesting Quotes. DEP shall request quotes each time it desires to purchase contractual services or commodities off the MAS. The specific format for requesting quotes is left to the discretion of DEP. The requirements for requesting quotes shall be in accordance with applicable State of Florida statutes and rules. Agencies shall document the justification for any selection based on receipt of fewer than two quotes.
- d. Best Value Determination. After receipt of quotes, DEP shall select the vendor offering the best value, after consideration of, at a minimum, the following terms (to the extent applicable): price, past performance, probable life of the item, warranty terms, maintenance availability, delivery terms, and trade-in considerations.
- e. PUR 7102. For any purchase off the MAS that exceeds \$10,000,000.00 for the initial term (excluding optional renewal terms), DEP shall submit to DMS a Form PUR 7102, Agency Request for Approval of Alternate Contract Source (ACS), for review and approval prior to completion of the purchase. DEP shall not separately procure portions of a project in a way that subverts this limitation.
- f. Purchase Orders. If DEP uses MyFloridaMarketPlace (MFMP), DEP shall issue a Purchase Order through MFMP for all purchases made off the MAS. DEP shall ensure that the Purchase Order issued off the MAS complies with all legal requirements (such as inclusion of statutorily required terms and conditions).
- g. Federal Ordering Guidance. Pursuant to 40 U.S.C. § 502(f), DEP shall use the MAS in accordance with the ordering guidance provided by the Administrator of the General Services Administration, including any restrictions on use or additional requirements contained therein.
- h. Reporting. DEP shall provide DMS with detailed reports regarding MAS purchases on a quarterly basis, if requested by DMS. If requested, DEP shall include in such report, at a minimum, a brief description of each MAS purchase and a certification attesting to DEP's compliance with the requirements set forth in this agreement. DEP shall

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submit these reports within the timeframe requested by DMS. DEP shall also provide DMS with any other records necessary to demonstrate compliance with the terms of this Agreement.

4. Primary Contacts.

DMS Agreement Manager:

Joseph Thomas
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399
Telephone: 850-488-8367
Email: joseph.thomas@dms.fl.gov

DEP's Agreement Manager:

Fran Spivey
Department of Environmental Protection
Division of Administrative Services
3800 Commonwealth Blvd., MS #93
Tallahassee, Florida 32399
Telephone: 850-245-2372
Email: Fran.Spivey@Floridadep.gov

5. Modifications.

With the exception of changes to the names or contact information of the contacts listed in Section 4, Primary Contacts, above, any amendments to this Agreement must be in writing and signed by both Parties.

6. Termination.

- a. Non-Compliance. DMS may terminate this Agreement if DEP fails to comply with any of the requirements specified in section 3, Purchases Off this Agreement, above. DMS shall provide DEP notice and an opportunity to cure such non-compliance issues at least thirty (30) calendar days prior to termination. DMS will issue a notice of termination if DEP fails to fully cure such noncompliance within thirty (30) calendar days following the date of a written notice of noncompliance. DMS's failure to demand performance of any provision of this Agreement shall not be deemed a waiver of such performance. DMS's waiver of any one breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this Agreement.

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- b. Mutual agreement. The Parties may terminate this Agreement by mutual agreement in writing.


- c. Execution of Participating Addenda. DMS may terminate this Agreement if DMS establishes agency purchasing authority off the MAS by entering into Participating Addenda with MAS vendors.

7. Governing Law and Jurisdiction.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida. A state court of competent jurisdiction in Leon County, Florida, shall be the exclusive venue for any action regarding this Agreement.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized undersigned officials.


DEPARTMENT OF ENVIRONMENTAL PROTECTION

DocuSigned by:

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Darinda McLaughlin
Deputy COS of Operations
6/12/2023 | 9:53 AM EDT

Date:

DEPARTMENT OF MANAGEMENT SERVICES

DocuSigned by:

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Brandon Spencer
Director of State Purchasing
6/19/2023 | 1:56 PM EDT

Date: