

**NOTICE:** The following “Complete Contract Document” has been modified to reflect all pertinent addenda issued during the solicitation.



# **INVITATION TO NEGOTIATE (ITN)**

## **FOR OFFICE AND EDUCATIONAL CONSUMABLES**

**ITN No. 618-001-10-1**

**ITN ISSUE DATE: MARCH 31, 2010  
RESPONSES DUE: APRIL 30, 2010**

**REFER ALL INQUIRIES TO:**

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## **SECTION 1.0**

### **INTRODUCTION**

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### 1.1 Purpose / Term

The State of Florida Department of Management Services' Division of State Purchasing ("the Department") is requesting proposals from responsible Respondents to establish a State Term Contract for Office and Educational Consumables. The initial term of the expected State Term Contract will be for three (3) years, with the potential option for renewals as allowed by Section 287.057 (14)(a), Florida Statutes. The initial contract term is anticipated to begin on July 1, 2010. Eligible Users of the new State Term Contract would include Florida state agencies, counties, cities, universities, colleges and Other Eligible Users as defined in Rule 60A-1.005, Florida Administrative Code (FAC).

**Respondents should carefully review all Sections of this ITN with particular attention to Section 2 (PUR 1001), Section 4 (PUR 1000), and Section 5 (Special Contract Conditions). All Sections of this ITN must be accepted and will be incorporated into the Contract without modification.**

The State's MyFloridaMarketPlace e-Procurement system Sourcing Tool ("MFMP Sourcing Tool") will be used to conduct this competitive event.

### 1.2 Scope

The scope of products for this Office and Educational Consumables solicitation are described in the table below. The Product Categories listed in the column "Covered by another statewide agreement" refers to categories covered by another State Term Contract, Alternate Contract Source, or State Purchasing Agreement. Respondents may exclude, but are not required to exclude, the items included in the column "Covered by another statewide agreement" from their product catalog. State agency users are encouraged to use the existing State Term Contracts for these items, but Eligible Users are permitted to purchase these items from the resulting Office and Educational Consumables contract. All users are encouraged to compare statewide agreements for best pricing.

In Scope	Covered by another statewide agreement
<ul style="list-style-type: none"> <li>▪ Office Consumables</li> <li>▪ Educational Consumables</li> <li>▪ Art Consumables</li> <li>▪ Paper (fewer than 10 cartons per order)</li> <li>▪ Envelopes</li> <li>▪ Toner (OEM and Remanufactured)</li> <li>▪ IT Peripherals</li> <li>▪ Office Equipment</li> </ul>	<ul style="list-style-type: none"> <li>▪ IT Hardware / Software</li> <li>▪ Printers</li> <li>▪ Copiers</li> <li>▪ Bulk Paper (10 or more cartons per order)</li> <li>▪ Furniture</li> <li>▪ Safety Supplies</li> <li>▪ Cleaning Products</li> <li>▪ Lab Supplies</li> </ul>

Examples of Product Categories contained in the scope of this solicitation are included in the table below. The table below is not meant to provide a comprehensive list of in scope items; it describes the most common types of items (Product Sub-Categories) contained within each Product Category. Please note that calendar related items will be replaced yearly with the next calendar year's version within the same product category. The Department and the Contractor during the contract period may mutually agree to align any missing or new Product Sub-Categories or services into the Product Categories listed below. The Department may use the S.P. Richards Product Categories as a point of reference during this process.

Product Category	Product Sub-Categories
Consumables	<ul style="list-style-type: none"> <li>• Adhesives, Glues, Gluesticks, Adhesive Removers</li> <li>• Appointment Books, Phone Message Books, Statement Books, Fax Message Books, While You Were Out Books, Forms, Dictionaries, Thesaurus, Diaries, Tickets, Reference Sets</li> <li>• Archive Boxes, Cardboard Boxes, Storage Containers</li> <li>• Award Frames, Displays, Plaques, Certificates</li> </ul>

Product Category	Product Sub-Categories
	<ul style="list-style-type: none"> <li>• Badges, Badge Holders, Lanyards</li> <li>• Batteries, Chargers,</li> <li>• Binder Clips, Paper Clips, Panel Clips, Pushpins, Thumbtacks, Safety Pins, Rubber bands, Scissors, Shears, Cutters, Trimmers, Hole Punches (non-electric)</li> <li>• Book Cases, Book Ends, Book Shelves</li> <li>• Bulletin Boards, Cork Boards, Easels, Easel Pads, Poster Boards</li> <li>• Calculator Ink, Calculator Spools, Adding Machine Tape, Cash Register Tape</li> <li>• Calendars, Desk pads, Refills, Planners</li> <li>• Camera Film, Photo Paper</li> <li>• Chair mats</li> <li>• Clocks, Hooks, Lamps</li> <li>• Correction Fluid, Correction Tape, Correction Pens</li> <li>• Envelopes</li> <li>• Erasers, Dry-Erase Erasers, Chalk, Crayons</li> <li>• Ink Pads, Refills, Stamps</li> <li>• Labels, Label Holders</li> <li>• Mailing Tubes, Mailing Tubs, CD Mailers, Packaging, Fingertips, Letter Openers, Moistener</li> <li>• Markers, Highlighters</li> <li>• Notebooks, Notepads, Pads of Paper, Post it NotesOffice Organizers, Inboxes, Copyholders, Pen and Pencil Holders, Wastebaskets, Drawers, Desktop Shelves, Shredder bags, Extension Cords</li> <li>• Pencils, Pencil Erasers, Lead Refills, Pencil Sharpeners, Pens, Pen Refills</li> <li>• Protractors, Rulers, Yardsticks, Compasses, Engineer Triangles</li> <li>• Index Cards, Business Cards, Card Holders, Tags, Sheet Protectors, Letters, Numbers, Fasteners, Fastener Bases, Clipboards, Flag Tape</li> <li>• Science, Art and Teaching Supplies</li> <li>• Signs, Sign Holder, Flyer Holders, Racks, Literature Displays, Name Plates</li> <li>• Staplers, Staples, Staple Removers</li> <li>• Tape, Tape Dispensers, Embossing Tape, Velcro Products</li> <li>• Transparency Film, Transparency Paper, Laminating Supplies, Laminating Pouches</li> </ul>
Breakroom & Cleaning Supplies	<ul style="list-style-type: none"> <li>• Coffee, Condiments, Food, Beverages</li> <li>• Cups, Spoons, Forks, Plates, Bowls</li> <li>• Dusters, Air Dusters, Computer Dust-off, All Wipes, Lysol, Clorox, Hand Soaps, Hand Sanitizers, Windex, Air Freshener, Dust Pans, Cleaning Supplies</li> <li>• Gloves</li> <li>• Knives, Cutters, Blades, Scrapers</li> <li>• Safety Supplies</li> <li>• Tissues and Towels</li> <li>• Wastebasket Bags</li> </ul>
Folders, Binders & Accessories	<ul style="list-style-type: none"> <li>• Binders, Combs, Rings, Spines</li> <li>• Files, File Folders, Pocket Files, Portfolios, Jackets, Inserts, Folder Frames, Dividers, Wallet Files, File Guides, Report Covers,</li> <li>• File Indexes, Tabs, Ledgers, Tab Reinforcement</li> </ul>
Paper - Other	<ul style="list-style-type: none"> <li>• Art Paper, Construction Paper, Crepe Paper</li> <li>• Colored Paper</li> <li>• Computer Paper</li> <li>• Specialty Paper</li> </ul>
Paper - 20# White (Recycled and Virgin)	<ul style="list-style-type: none"> <li>• 20#, White Copy Paper, minimum 92 bright (recycled and virgin)</li> </ul>
Toner	<ul style="list-style-type: none"> <li>• Ribbons</li> </ul>

Product Category	Product Sub-Categories
	<ul style="list-style-type: none"> <li>• Toners, Cartridges, Fusers, Kits, Drums, and Related Accessories (OEM and Remanufactured)</li> </ul>
IT Peripherals	<ul style="list-style-type: none"> <li>• CDs, DVDs, Cassette Tapes, Tape Cartridges, CD and DVD Cases, CD and DVD Storage, VHS Tapes, Computer Disks and Diskettes, Computer Bags and Cases, Mouse, Keyboards, Keyboard Pads, Mouse pads, Camera Bags, Camera Cases</li> <li>• Headsets, Headset Accessories, Headphones</li> <li>• IT Hardware / Software</li> <li>• Surge Protectors, UPS Power Supply</li> <li>• USB Drives, Flash Memory, Zip Disks</li> </ul>
Equipment	<ul style="list-style-type: none"> <li>• Calculators</li> <li>• Carts, Hand trucks</li> <li>• Digital Voice Recorders</li> <li>• Fans, Heaters</li> <li>• Furniture</li> <li>• Hole Punches (electric)</li> <li>• Label Makers</li> <li>• Laminators</li> <li>• Printers</li> <li>• Shredders</li> <li>• Typewriters</li> </ul>

### 1.3 Estimated Usage

The current Office and School Supplies Alternate Contract Source has averaged \$42,000,000 in purchases annually over the State's last 3 fiscal years (July 1-June 30). This figure is given only as a guideline for preparing an offer and should not be construed as representing actual or guaranteed purchases under any new contract.

### 1.4 Eligible Users

All Florida government and educational entities are considered Eligible Users of the Office and Educational Consumables State Term Contract. This includes all State agencies, school districts, universities, community colleges, counties, cities, towns, villages, special districts, and other entities approved by the Department. With the consent of the successful Respondent(s), purchases may also be made under the terms and conditions of this solicitation by governmental and educational entities located outside the State of Florida. Appropriate governmental and educational entities' purchasing laws, rules, and regulations shall apply to purchases made under this contract. Eligible Users and governmental entities are defined in Florida Administrative Code and Statutes as described below:

**Rule 60A-1.005, Florida Administrative Code, identifies Eligible Users as:**

- All governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the State of Florida;
- Any independent, nonprofit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools.

**Section 163.3164, Florida Statutes:**

- (10) "Governmental agency" means:
  - The United States or any department, commission, agency, or other instrumentality thereof.
  - This state or any department, commission, agency, or other instrumentality thereof.

- Any local government, as defined in this section, or any department, commission, agency, or other instrumentality thereof.
- Any school board or other special district, authority, or governmental entity.

### 1.5 Schedule of Events

The table below contains the intended schedule of events for this solicitation.

Events	Event Time (EDT)	Event Date
Issue the Office and Educational Consumables ITN/ Solicitation Preview Period Opens in the MFMP Sourcing Tool		March 31, 2010
<b>Pre-Bid Conference (Not Mandatory)</b> Betty Easley Conference Center RM 152, 4075 Esplanade Way, Tallahassee FL, 32399, For a map go to: <a href="http://fcn.state.fl.us/dms/dbc/facilities/maps/CCOC%20Map%20August%202005.pdf">http://fcn.state.fl.us/dms/dbc/facilities/maps/CCOC%20Map%20August%202005.pdf</a>	2:00 PM	April 26, 2010
Questions from Respondents Due / Bid Opens for Responses	2:00 PM	April 30, 2010
Post Responses to Respondents' Questions		May 7, 2010
<b>Responses Due</b>	2:00 PM	May 28, 2010
Public Meeting for Evaluators	2:00 PM	June 18, 2010
Post Notice of Intent to Negotiate		June 22, 2010
Begin Negotiation Session(s)		July 12, 2010
Public Meeting – Meeting of the Negotiation Team 4050 Esplanade Way Conference Room 101 Tallahassee FL, 32399 <b>Conference Call Dial-in Number: 1-888-808-6959</b> <b>Participant Conference Code: 5263885</b>	2:00 PM	August 2, 2010
Best and Final Offers Due	2:00 PM	August 10, 2010
Public Meeting – Recommend Award 4050 Esplanade Way Conference Room 101 Tallahassee FL, 32399 <b>Conference Call Dial-in Number: 1-888-808-6959</b> <b>Participant Conference Code: 5263885</b>	2:00 PM	August 12, 2010
Post Notice of Intent to Award		August 23, 2010
Award Contract		August 27, 2010
Target Date for Contract Execution		October 1, 2010

**YOU SHOULD SUBMIT YOUR RESPONSE IN THE MFMP SOURCING TOOL AS EARLY AS POSSIBLE. YOU SHOULD ALLOW FOR ADEQUATE 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.**

**DO NOT RELY ON THE MFMP SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE EVENT TIMELINE (SECTION 1.5) OF THIS ITN.**

### 1.6 Contact Person

The Contact Person is the sole point of contact from the date of release of this ITN until the contract award is made. Respondents shall not contact any other State agency, Department of Management Services, or Eligible User employee for information with respect to this solicitation.



Contact Person for this ITN is:

**Danielle Kosberg, PMP**

Lead Purchasing Analyst, Division of State Purchasing

Florida Department of Management Services

4050 Esplanade Way, Suite 360, Tallahassee, FL 32399-0950

Phone: 850-413-0474

Email: [danielle.kosberg@dms.myflorida.com](mailto:danielle.kosberg@dms.myflorida.com)

**1.7 Solicitation Questions**

All questions must be submitted via the Q&A Board within the MFMP Sourcing Tool. Respondents have the ability to ask questions about the proposed items included in the office and educational consumables pricing proposals. Respondents are asked to indicate any questions or concerns with the listed Items in the price proposals. For questions about product items, Respondents are asked to reference the Item Index Number (e.g., C25, G14), their concerns, and provide for recommendations. Respondents are asked to indicate any issue that would prevent them from being able to submit a complete Price Proposal. As a reminder, Respondents must submit a complete Price Proposal for every one of the listed items.

Questions shall be received no later than the time and date reflected on the Event Timeline in Section 1.5. The Department will provide responses to the questions according to the Event Timeline. All submitted questions will be published exactly as submitted along with the Department's response.

## **SECTION 2.0**

### **GENERAL INSTRUCTIONS TO RESPONDENTS, STATE OF FLORIDA FORM PUR 1001**

- 2.1 DEFINITIONS**
- 2.2 GENERAL INSTRUCTIONS**
- 2.3 ELECTRONIC SUBMISSION OF RESPONSES**
- 2.4 TERMS AND CONDITIONS**
- 2.5 QUESTIONS**
- 2.6 CONFLICT OF INTEREST**
- 2.7 CONVICTED VENDORS**
- 2.8 DISCRIMINATORY VENDORS**
- 2.9 RESPONDENT'S REPRESENTATION AND AUTHORIZATION**
- 2.10 MANUFACTURER'S NAME AND APPROVED EQUIVALENTS**
- 2.11 PERFORMANCE QUALIFICATIONS**
- 2.12 PUBLIC OPENING**
- 2.13 ELECTRONIC POSTING OF NOTICE OF INTENDED AWARD**
- 2.14 FIRM RESPONSE**
- 2.15 CLARIFICATIONS/ REVISIONS**
- 2.16 MINOR IRREGULARITIES / RIGHT TO REJECT**
- 2.17 CONTRACT FORMATION**
- 2.18 CONTRACT OVERLAP**
- 2.19 PUBLIC RECORDS**
- 2.20 PROTESTS**
- 2.21 LIMITATION ON VENDOR CONTACT**

## 2.1 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 Section 1 Introduction.
- 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 Section 1 Introduction.

## 2.2 General Instructions

Potential Respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

## 2.3 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 MFMP. 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.

## 2.4 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.

## 2.5 Questions

Respondents shall address all questions regarding this solicitation to the Procurement Officer in section 1.6 of this ITN. Questions must be submitted via the Q&A Board within the MFMP Sourcing Tool and must be RECEIVED NO LATER THAN the time and date reflected on the Schedule of Events. Questions shall be answered in the timeframe indicated on the Schedule of Events. 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 MFMP 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.

## **2.6 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.

## **2.7 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.

## **2.8 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.

## **2.9 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.

## **2.10 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. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

### **2.11 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.

### **2.12 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).

### **2.13 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://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_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.

### **2.14 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.

### **2.15 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.

### **2.16 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.

## **2.17 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.

## **2.18 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.

## **2.19 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.

## **2.20 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."

## **2.21 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.

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## **SECTION 3.0**

### **SPECIAL INSTRUCTIONS TO RESPONDENTS**

**SPECIAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN THIS SECTION 3.0 MAY SUPERSEDE OR SUPPLEMENT GENERAL INSTRUCTIONS TO RESPONDENTS CONTAINED IN SECTION 2.0.**

- 3.1 OVERVIEW OF THE SOLICITATION PROCESS**
- 3.2 USE OF S.P. RICHARDS**
- 3.3 WHO MAY RESPOND**
- 3.4 ORDER OF PRECEDENCE**
- 3.5 ADDENDA TO THE ITN DOCUMENTS**
- 3.6 SUBMITTAL OF RESPONSE**
- 3.7 NOTIFICATION PROCESS**
- 3.8 MYFLORIDAMARKETPLACE(MFMP) REGISTRATION AND SOURCING TOOL OVERVIEW**
- 3.9 REQUESTS FOR CLARIFICATION / SUBMISSION OF QUESTIONS**
- 3.10 BASIS FOR AWARD**
- 3.11 RESPONSE OPENING AND ELECTRONIC POSTING OF NOTICE OF INTENT TO AWARD**
- 3.12 EXECUTION OF RESPONSE**
- 3.13 SPECIAL ACCOMMODATION**
- 3.14 FIRM RESPONSE**
- 3.15 USE OF THIRD-PARTY CONSULTANT**
- 3.16 CANCELLATION OR WITHDRAWAL OF ITN**
- 3.17 CONFIDENTIAL INFORMATION**



### 3.1 Overview of the Solicitation Process

The Department intends to use an ITN to conduct this solicitation, which includes the following components (detailed below): Qualification Questions, Technical Proposal, Price Proposals, Forms and Additional Information. The Department reserves the right to award to one or multiple Respondents. The Department intends to select one of two award options. If the Department chooses Award Option 1, the Office and Educational Consumables Contract will be awarded to one Respondent. If the Department chooses Award Option 2, the Office and Educational Consumables Contract will be awarded to multiple Respondents, including but not limited to Respondents providing statewide coverage and Respondents providing regional coverage. If the Department chooses Award Option 2 and awards the contract to multiple Respondents, Eligible Users will have the option to conduct requests for quotes. Refer to Section 6 – Technical Specifications and Section 7 – Evaluation and Selection for details of the response submissions, evaluation and selection process.

#### 3.1.1 Qualification Questions

The intent of the Qualification Questions is to determine if Respondents are capable and willing to meet the mandatory requirements of this solicitation.

Respondents will submit Yes / No answers to each mandatory question within the MFMP Sourcing Tool. All of the submitted responses to the qualification questions in the MFMP Sourcing Tool will be reviewed by the Procurement Officer. **Respondents that answer “No” to any of the mandatory requirements will not have their remaining Technical or Price proposal scored and will be disqualified to participate in this solicitation..** Respondents that answer “Yes” with all the qualification questions by answering “Yes” to all of the mandatory requirements will be evaluated on their Technical Proposals. Applicants should use care and integrity in preparing their responses to the qualification questions, since these are mandatory requirements and will not be negotiable during the solicitation process.

#### 3.1.2 Technical, Price Proposals, Forms and Additional Information

All Respondents are asked to submit a Technical Proposal, Price Proposal(s), and required forms. All Respondents' Technical Proposals will be opened and scored before the Respondents' Price Proposals are opened. Only Respondents scoring 280 points or more on their Technical Proposals will have their Price Proposals scored.

All Respondents shall use the MFMP Sourcing Tool to submit their responses to the Technical and Price Proposals. Respondents shall also complete and upload the required forms and additional information below in the MFMP Sourcing Tool:

- Attachment A - Reference Check Form (2 Customer References are required)
- Attachment B - Certification of Drug Free Workplace Program Form
- Attachment C - Department of State Registration Form / Authority to Do Business in the State of Florida
- Attachment D - Ordering Instructions
- Respondent's Dunn and Bradstreet SQR Report
- Respondent's Proposed Catalog With List Prices

**Respondents Offering Statewide Coverage:** Only Respondents scoring 280 points or more on the Technical Proposal will have their Price Proposals scored. The Department requires Respondents offering statewide coverage to submit Price Proposals using Attachment E - Statewide Price Proposal Tool. Respondents must fill out all the worksheets in Attachment E. Since the Department may choose either to award the contract to a single statewide respondent or multiple statewide and regional respondents, Respondents must submit two Price Proposals contained within Attachment E. “Price Proposal #1” represents a Respondent's proposed pricing if the Department awards the contract to a single Respondent, and “Price Proposal #2” represents a Respondent's proposed pricing if the Department chooses to award the contract to multiple Respondents.

After the proposal submission due date, the Department will score both Price Proposal #1 and Price Proposal #2 and add each separately to the Respondent's Technical Proposal score to calculate the following two scores:

$$\begin{aligned}\text{Technical Proposal} + \text{Price Proposal \#1 (single award)} &= \text{Score A} \\ \text{Technical Proposal} + \text{Price Proposal \#2 (multi-award)} &= \text{Score B}\end{aligned}$$

The Respondents' final Stage 1 scores above will be used to rank all responsive proposals to determine which Respondents will move to negotiations. See Section 3.13 for more details on the Department's award criteria.

**Respondents Offering Only Regional Coverage:** Only Respondents scoring 280 points or more on the Technical Proposal will have their Price Proposals scored. The Department requires Respondents offering regional coverage to submit a Price Proposal using Attachment F - Regional Price Proposal Tool. Respondents must fill out all the worksheets in Attachment F, including indicating which regions they propose to cover. If the Respondent is able to cover all four (4) regions in the State, the Respondent must submit their Price Proposals using Attachment E - Statewide Pricing Proposal Tool.

After the proposal submission due date, the Department will score the Price Proposal and the score to the Respondent's Technical Proposal score to calculate the following final score:

$$\text{Technical Proposal} + \text{Price Proposal} = \text{Region Score}$$

The Respondents' final score above will be used to rank all responsive proposals to determine which Respondents will move to negotiations. See Section 3.13 for more details on the Department's award criteria.

### 3.1.3 Negotiations

The Department intends to have discussions with the top three scoring Respondents under each award option to discuss their Technical and Price Proposals. The Department reserves the right to conduct negotiations with more or less than three Respondents if it is deemed in the best value of the State. Discussions will focus on identifying potential opportunities for improvement of value delivered to the State. Respondents will be provided with the opportunity to submit best and final Technical and Price Proposals. The Department will score resubmitted Price Proposals to determine final scores that will be used in the award decision. The Department reserves the right to finalize the negotiations at any point and post an "Intent to Award" notice.

**Respondents Offering Statewide Coverage:** After analysis and ranking of Respondents under both Score A and Score B, the Department reserves the right to negotiate, either serially or concurrently, with the top three scoring Respondents providing statewide coverage under both the single award and multiple award scenarios.

**Respondents Offering Only Regional Coverage:** After analysis and ranking of Respondents under the each of the 4 Regions, the Department intends to negotiate with only the top scoring Respondent in each region.

### 3.2 Use of S. P. Richards

The Department is using Quarter 1, 2010 S.P. Richards' retail list price as a consistent reference point for pricing analysis and comparison across Respondents during this solicitation and will use S. P. Richards' retail list price to provide a mechanism to manage pricing throughout the contract period. S.P. Richards' Quarter 3, 2010 retail price list will be used to establish the list prices for the effective date of the contract through Quarter 4 2010. Beginning Quarter 1 2011, S.P. Richards' published quarterly list prices will be used to update contract pricing for non-generic items, where available. This does not mean that a Respondent must use S.P. Richards as their wholesaler. For the items contained in the Core Items and Generic Core Items worksheet, Respondents shall submit discounts off of the Quarter 1 2010 List Price by provided Product Category.

Respondents are required to submit with their response an electronic copy of their complete product list that they intend to provide Customers under the awarded contract. This product list will not be used in the evaluation of the Respondent's Proposal. This price list will serve as the Contractor's catalog and list prices until Quarter 1 2011 of the awarded contract. Respondents must indicate the Quarter 3 2010 S.P. Richards' list price for all products. Where there is no S.P. Richards' list price available (i.e., a product is not available through S.P. Richards), the product manufacturer's MSRP shall be listed. If the item is a generic item (e.g., private label), then the Respondent is considered the product manufacturer and the Respondent's established, reasonable list price shall be listed.

### 3.3 Who May Respond

To be eligible to respond to this solicitation, Respondents must meet the following requirements:

1. Must not be on the Florida Suspended Vendor List
2. Have no delinquent State of Florida Transaction Fees (see Section 4.14)
3. Meet the Mandatory Requirements outlined in Section 6.0
4. Possess the financial capability, experience, and personnel resources to provide services of the scope and breadth described in this ITN

The Department reserves the right to request additional information and / or clarification pertaining to Respondents' experience, ability, and qualifications to perform services described in this ITN, during the solicitation or after contract award.

Respondents failing to provide requested information and / or clarification or submitting false or erroneous information may be deemed non-responsive and shall not be awarded a contract. If a Respondent's Proposal is found to contain false and / or erroneous information after contract award, the contract may be terminated.

### 3.4 Order of Precedence

Potential Respondents for this solicitation are encouraged to carefully review all materials contained herein and prepare responses accordingly. In the event any conflict exists between the Special and General Instructions, those instructions specified in the Special Instructions shall prevail. In the event any conflict exists between the Special and General Conditions, those conditions specified in the Special Conditions shall prevail.

All responses are subject to the terms of the following sections of these solicitation documents, which, in case of conflict, shall have the order of precedence listed:

- Addenda (if any) to the ITN Documents
- Technical Specifications (Section 6.0)
- Evaluation and Selection (Section 7.0)
- Attachments (Section 8.0)
- Special Instructions to Respondents (Section 3.0)
- Special Contract Conditions (Section 5.0)
- General Contract Conditions (Section 4.0 (PUR 1000))
- General Instructions to Respondents (Section 2.0 (PUR 1001))
- Introduction (Section 1.0)

### 3.5 Addenda to the ITN Documents

The Department reserves the right to issue amendments to the solicitation. Notice of any amendment will be posted within the MFMP Sourcing Tool. Such notice, if required, will contain the appropriate details for identifying and / or reviewing formal changes to the solicitation. Each Respondent is responsible for monitoring the site for new or changing information concerning this solicitation.

Respondents are reminded that the MFMP Sourcing Tool's email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under any obligation to provide, and does not guarantee that Respondents will receive email notifications concerning any posting, amendment, or close of solicitations.

### 3.6 Submittal of Response

Responses shall be completed per instructions in this ITN document, and Respondents will submit their proposal via the MFMP Sourcing Tool BY THE DATE AND TIME SPECIFIED IN SECTION 1.5 SCHEDULE OF EVENTS. In the event a Respondent submits more than one response, only the last response received by the MFMP Sourcing Tool shall be considered for award.

Proposals not submitted within the MFMP Sourcing Tool shall be rejected. Each Respondent is responsible for ensuring that the proposal is submitted at the proper time. The Department shall not consider late proposals and the MFMP Sourcing Tool will NOT accept proposals after the due date and time specified in the Schedule of Events in Section 1.5, or as amended by the Department.

### 3.7 Notification Process

All solicitation documents and notices of agency decisions will be posted both in the MFMP Sourcing Tool and on the Vendor Bid System.

The MFMP Sourcing Tool can be accessed by Respondents that are properly registered in the MFMP Vendor Information Portal, as detailed in Section 3.8 MFMP Registration and Sourcing Tool Overview.

The Vendor Bid System can be accessed by going to [http://vbs.dms.state.fl.us/vbs/search.criteria\\_form](http://vbs.dms.state.fl.us/vbs/search.criteria_form) and selecting the Department of Management Services under the Agency search criteria box. Then select the Initiate Search button near the bottom of the page and look for the name of this solicitation.

Respondents are reminded that the MFMP Sourcing Tool's email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under any obligation to provide, and does not guarantee that Respondents will receive, email notifications concerning any posting, amendment, or close of solicitations (ITNs).

Respondents are responsible for checking the MFMP Sourcing Tool and / or the Vendor Bid System for information and updates concerning solicitations.

### 3.8 MFMP Registration and Sourcing Tool Overview

The Department uses the MFMP Sourcing Tool to post solicitations and receive responses to solicitations electronically.

#### *MFMP Vendor Registration Application:*

Respondents must have current and complete Vendor Registration Application identified on the MFMP Vendor Information Portal at: <https://vendor.MFMP.com/>. If you have not registered, please be advised that a minimum of 48 hours will be required for access to the MFMP Sourcing Tool upon completion of your registration in the MFMP system. Completion of this registration and acceptance of the Terms of Use are mandatory for those Respondents who wish to submit a response to this solicitation.

#### *MFMP Sourcing Tool Training for Respondents:*

This solicitation will be conducted using the MFMP Sourcing Tool. Training materials can be found at: [http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm). Copy link and paste in to web browser to access site. Download and review the document titled ITN Event User Guide.

- For all technical questions about the MFMP Sourcing Tool, Respondents should contact the MFMP Customer Service Desk at (866) FLA-EPRO or [vendorhelp@MFMP.com](mailto:vendorhelp@MFMP.com).
- For additional information / assistance on using the MFMP Sourcing Tool, please visit the MFMP website at following link:  
[http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm).

The MFMP Sourcing Tool site includes:

- Solicitation User Guides
- On-Demand web-based Sourcing Tool training link
- WinZip FAQs
- Vendor FAQs

*MFMP Sourcing Tool Tips:*

When working in the MFMP Sourcing Tool, be aware of the thirty (30) minute time-out function (with a two (2) minute warning in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty minutes to ensure your entries (since last saved) are not lost.

Please note that clicking the SAVE button within the MFMP Sourcing Tool only saves your responses. The SAVE button does not transmit your response to the State. In order to transmit your response to the State, you must click the SUBMIT button on the SUMMARY page of the response.

After clicking the SUBMIT button, it is your responsibility to check your submitted response within the MFMP Sourcing Tool to verify that your response is accurately and completely captured within the tool. You must do this while there is time remaining in the response period in case you discover an error and need to submit a revised response.

To validate your response, you should do the following before the Response period ends:

- 1) Go to the "My Bids / My Responses" tab within the MFMP Sourcing Tool after you submit your response.
- 2) Click on the Bid ID number of your last submitted response.
- 3) Review entire response to make sure all responses are complete, accurate, and as you intended to submit.
- 4) Minimum areas to check are:
  - i) Text boxes – Is your entire answer viewable?
  - ii) Yes / No questions – Is the displayed answer correct?
  - iii) All uploaded document files / scanned documents – Can you open attached document and clearly view entire content?
  - iv) Offline electronic backup copy sent to the State (if applicable) - Can you open attached document and clearly view entire content? Does content of this file match your response within the tool (e.g., not an earlier version or working copy)?
  - v) Pricing Information – Are all prices you intended to submit visible and accurately captured within the MFMP Sourcing Tool?

It is strongly recommended that you 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.

The MFMP Sourcing Tool's 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.

DO NOT RELY ON THE MFMP SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE SCHEDULE OF EVENTS (Section 1.5) OF THIS ITN.

### **3.9 Requests for Clarification / Submission of Questions**

All requests for clarification and questions must be submitted via the Q&A Board within the MFMP Sourcing Tool. Respondents have the ability to ask questions about the proposed items included in the office and educational consumables pricing proposals. Respondents are asked to indicate any questions or concerns with the listed Items in the price proposals. For questions about product items, Respondents are asked to reference the Item Index Number (e.g., C25, G14), their concerns, and provide for recommendations. Respondents are asked to indicate any issue that would prevent them

from being able to submit a complete Price Proposal. As a reminder, Respondents must submit a complete Price Proposal for every one of the listed items.

Questions shall be received no later than the time and date reflected on the Event Timeline in Section 1.5. The Department will provide responses to the questions according to the Event Timeline. All submitted questions will be published exactly as submitted along with the Department's response.

### **3.10 Basis for Award**

The Department reserves the right to reject pricing that is greater than pricing offered to other potential Customers (e.g., purchasing cooperatives, cities, counties, universities, colleges, or similarly situated states, such as California, New York, and Texas). The Department reserves the right to accept or reject any and all responses, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interest.

The Department will review the Respondent's proposals submitted as outlined in Section 7 - Evaluation and Selection, which includes both the single award, multiple award, and regional pricing proposals. The Department reserves the right to award to a single Respondent or multiple Respondents as determined to be the best value of the State.

### **3.11 Response Opening and Electronic Posting of Notice of Intended Award**

Offers shall be opened after the date and time indicated on the Schedule of Events in Section 1.5 and thereafter evaluated according to Section 7 - Evaluation and Selection.

If the ranking or award is delayed, the Department shall post a notice of the delay in the MFMP Sourcing Tool and the Vendor Bid System and revise the Schedule of Events.

Any person who is adversely affected by the decision may file a notice of protest in accordance with Section 120 of the Florida Statutes. See paragraph 2.20 of the General Instructions (PUR 1001). The Department shall not reply to, or provide rankings or notices of award by telephone, email, or fax.

### **3.12 Execution of Response**

The Respondent's response shall include all appropriate forms located within the MFMP Sourcing Tool RFX Info Section and as outlined Section 6 – Technical Specifications. Requested question responses shall be entered electronically in the MFMP Sourcing Tool as indicated in Section 6 – Technical Specifications. The Respondent's response shall include the Pricing Proposal spreadsheet within the MFMP Sourcing Tool RFX Info Section and as outlined in Section 6 – Technical Specifications. Failure to provide all required information and documentation within the response / proposal package shall result in rejection of the proposal.

### **3.13 Special Accommodation**

Any person requiring a special accommodation for public meetings because of a disability should call State Purchasing at (850) 488-8440 at least 48 hours prior to public meetings. If you are hearing or speech impaired, please contact State Purchasing by using the Florida Relay Service at (800) 955-8771 (TDD).

### **3.14 Firm Response**

The Department may make an award within one-hundred and eighty (180) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If an award is not made within one-hundred and eighty (180) days, the response shall remain firm until either the Department awards the Contract or the Department receives from the Respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Department's sole discretion, be accepted or rejected.

### **3.15 Use of Third-Party Consultant**



The Department has chosen to use a consultant to help prepare this ITN. The consultant we chose is Accenture LLP. Although our consultant has helped to prepare the ITN's contents, they are not involved in the decision making process, which shall remain exclusively with the State of Florida.

**3.16 Cancellation or Withdrawal of ITN**

This ITN may be cancelled or withdrawn at any time and any and all responses may be rejected in whole or in part when the Department determines such action to be in the best interest of the State of Florida.

**3.17 Confidential Information**

Any documents submitted pursuant to this ITN and identified by the Respondent as containing confidential and proprietary information will not be released to any person making a request for copies of information submitted to the Department until the Respondent has been notified and provided the opportunity to defend release of the document containing the identified confidential information. In transmitting any document which contains proprietary confidential business information, the Respondent shall note within the body of the document itself, the following warning:

THIS DOCUMENT IS NOT A PUBLIC RECORD, AND IS EXEMPT FROM THE PROVISIONS OF CHAPTER 119, FLORIDA STATUTES, PURSUANT TO THE PROVISIONS OF SECTION 946.517, FLORIDA STATUTES.

## **SECTION 4.0**

### **GENERAL CONTRACT CONDITIONS, STATE OF FLORIDA FORM PUR 1000**

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- 4.1 DEFINITIONS**
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- 4.47 SEVERABILITY**

#### 4.1 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).

#### 4.2 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.

#### 4.3 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.

#### 4.4 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 Procurement Officer 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.

#### **4.5 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.

#### **4.6 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.

#### **4.7 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.

#### **4.8 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.

#### **4.9 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.

#### **4.10 Literature**

Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

#### **4.11 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.

**4.12 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.

**4.13 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.

**4.14 Transaction Fee**

The State of Florida has instituted MFMP, 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 reprocurement 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.

#### **4.15 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.

#### **4.16 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.

#### **4.17 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.

#### **4.18 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://dlis.dos.state.fl.us/barm/genschedules/gensched.htm>). 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.

**4.19 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.

**4.20 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.

**4.21 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.

#### **4.22 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.

#### **4.23 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.

#### **4.24 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.

**4.25 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.

**4.26 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.

**4.27 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.

**4.28 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.

#### **4.29 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.

#### **4.30 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.

#### **4.31 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.

#### **4.32 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.

#### **4.33 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.

#### **4.34 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.

#### **4.35 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.

#### **4.36 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.

#### **4.37 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.

#### **4.38 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.

#### **4.39 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.

#### **4.40 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>.

**4.41 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>.

**4.42 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.

**4.43 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.

**4.44 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.

**4.45 Annual Appropriations**

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

**4.46 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.

**4.47 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.

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## **SECTION 5.0**

### **SPECIAL CONTRACT CONDITIONS**

**SPECIAL CONTRACT CONDITIONS CONTAINED IN THIS SECTION 5.0 MAY SUPERSEDE OR SUPPLEMENT GENERAL CONTRACT CONDITIONS TO RESPONDENTS CONTAINED IN SECTION 4.0.**

- 5.1 PUNCH-OUT CATALOG AND ELECTRONIC INVOICING**
- 5.2 STATE OF FLORIDA ONLINE CATALOG**
- 5.3 PURCHASING CARD PROGRAM**
- 5.4 COMPLIANCE WITH LAWS**
- 5.5 LIQUIDATED DAMAGES**
- 5.6 LIABILITY INSURANCE AND WORKER'S COMPENSATION**
- 5.7 PERFORMANCE BOND**
- 5.8 ONGOING PERFORMANCE MEASURES**
- 5.9 CONTRACT REPORTING REQUIREMENTS**
- 5.10 BUSINESS REVIEW MEETINGS**
- 5.11 PRICE CHANGES**
- 5.12 NON-CORE ITEMS REVISED, CONTRACT ANNIVERSARY PRICING (NON-CORE TO CORE DISCOUNT)**
- 5.13 STATE OBJECTIVES**

### 5.1 Punch-out Catalog and Electronic Invoicing

The Contractor shall supply a punch-out catalog. The punch-out catalog provides an alternative mechanism for suppliers to offer the State of Florida access to products awarded under contract. The punch-out catalog also allows for direct communication between the MyFloridaMarketPlace eProcurement System (MFMP) and a supplier's ERP system, which can reflect real-time product inventory/availability information.

Through utilization of the punch-out catalog model, a Florida buyer will "punch out" to a supplier's website. Using the search tools on the supplier's Florida punch-out catalog site, the user selects the desired products and services. When complete, the user exits the supplier's punch-out catalog site and the shopping cart (full of products and services) is "brought back" to MFMP. No orders are sent to a supplier when the user exits the supplier's punch-out catalog site. Instead, the chosen products and services are "brought back" to MFMP as contract line items. The user can then proceed through the normal workflow steps, which may include adding the items to a requisition or a purchase order. An order is not submitted to a supplier until the buyer actually adds the line items to a purchase order and the purchase order is approved and sent to the supplier.

The Contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MFMP. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of three mechanisms as listed below. Suppliers can select the method that best meets their capabilities from the following list:

- **cXML (commerce eXtensible Markup Language)**  
This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services. *The cXML format is the Ariba preferred method for eInvoicing.*
- **EDI (Electronic Data Interchange)**  
This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services.
- **PO Flip via ASN**  
The online process allows suppliers to submit invoices via the ASN for catalog and non-catalog goods and services. Suppliers have the ability to create an invoice directly from their Inbox in their ASN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider of MFMP, a State Contractor, but only to the extent such third party provider of MFMP is working directly on behalf of the State a non-exclusive, non-transferable, limited license to use, reproduce, transmit, distribute, and publicly display within the MFMP the Contractor's punch-out catalog-site. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider, but only to the extent such third party provider of MFMP is working directly on behalf of the State, a non-exclusive, non-transferable, limited license to reproduce and display within the MFMP the Contractor's trademarks, service marks, logos, trade dress, or other branding designation of Contractor that identifies the products made available by the Contractor under the Contract.

The Contractor will work with the MFMP management team to obtain specific requirements for the Punch-out Catalog and Electronic Invoicing.

The Contractor is required to provide additional Ordering Instructions in Attachment D – Ordering Instructions to identify persons responsible for answering questions about the response and administering the Contract and shall provide information necessary for placing orders under the Contract.

### 5.2 State of Florida Online Catalog

In addition to the Contractor's punch-out catalog in MFMP, the Contractor shall provide a specific online ordering portal and product catalog (referred to as the online catalog) to the State of Florida containing only State of Florida items and prices. The contractor will, within sixty (60) days of contract award, make available the online catalog that contains only items that are in the scope of the awarded contract. For each item, the following information shall be provided at a minimum: item description, manufacturer name, manufacturer part number, unit of measure, list price and contract price.

### 5.3 Purchasing Card Program

The State of Florida has implemented a purchasing card program, using the Visa platform. Respondents may receive payment from state agencies by the State's Purchasing Card in the same manner as any other Visa purchases. Purchasing Card / Visa acceptance for purchase is a mandatory requirement for this solicitation but is not the exclusive method of payment.

If the State changes its Purchasing Card platform during the term of Contract resulting from this ITN, the awardee shall make any necessary changes to accommodate the State's new Purchasing Card platform within 30 days of notification of such change.

### 5.4 Compliance with Laws

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. By way of non-exhaustive example, Chapter 287, Florida Statutes and Chapter 60A, Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization 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 such laws shall be grounds for Contract termination.

### 5.5 Liquidated Damages

The Respondent is required to meet the performance standards for Delivery Timing, Order Accuracy, Order Completeness/Fill, and Price Accuracy described in Section 6.3.1, Q2. Failure to meet the performance standards specified will result in the specified damages to the State as shown in the chart below. On the 15<sup>th</sup> of the month following the month being reported, the Respondent shall submit a report to the Contract Administrator containing the information required in Section 6.3.1, Q2. Performance Assurances, if applicable, will be paid via check or money order made out to the Department of Management Services in US Dollars within 30 days after report submission. These damages are assessed for failures over each 12 month period beginning with the first full month of contract performance and every 12 months thereafter. Contractors are required to meet performance standards for Delivery Timing, Order Accuracy, Order Completeness/Fill and Price Accuracy on standard contract orders only. Special/custom orders can be excluded from the calculations of these performance standards.

Item	First Failure	Second Failure	Third Failure	Fourth Failure	Fifth Failure*	Each Additional Failure
Submit Report	\$0	\$500	\$500	\$1,000	\$2,000	\$3,000
Delivery Timing – less than 95% on time	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000
Order Accuracy – less than 98% of items	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000



delivered are accurate						
Order Completeness/ Fill – less than 95%	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000
Price Accuracy – less than 99.5%	\$0	\$0	\$2,000	\$3,000	\$4,000	\$5,000

\*Note: If respondent fails to meet the performance standards 5 or more times in a 12 month contract period, the State shall have grounds to initiate contract breach and termination proceedings.

### 5.6 Liability Insurance and Worker's Compensation

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, which, as a minimum, shall be: workers' compensation and employer's liability insurance per Florida statutory limits (currently \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate) covering all employees engaged in any Contract work; commercial general liability coverage on an occurrence basis in the minimum amount of \$500,000 (defense cost shall be in excess of the limit of liability), naming the State as an additional insured as its interest may appear; and automobile liability insurance covering all vehicles, owned or otherwise, used in the Contract work, with minimum combined limits of \$500,000, including hired and non-owned liability, and \$5,000 medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor and is of the essence of the Contract. Upon request, the Contractor shall provide certificate of insurance. The Contract shall not limit the types of insurance Contractor may desire to obtain or be required to obtain by law. 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 to write policies in Florida.

### 5.7 Performance Bond

If deemed necessary, the Customer may require the Contractor to furnish (without additional cost) a performance bond, a negotiable irrevocable letter of credit or other form of security for the faithful performance of work. Determination of the appropriateness and amount of any bond requirement, is the sole responsibility, and at the sole discretion, of the Customer.

### 5.8 Ongoing Performance Measures

The Department intends to use performance-reporting tools and service level agreements as outlined in this solicitation, in order to measure the performance of Contractors. Such measures assist the Department in ensuring that Contractors provide the best possible value to the State and end users. The State reserves the right to modify and introduce additional performance-reporting tools as they are developed, including online tools (e.g. tools within MFMP or on the Department's website).

### 5.9 Contract Reporting Requirements

The Contractor shall report sales data to the Contract Manager on a quarterly basis using the Contract Quarterly Reporting Form in Attachment G – Quarterly Reporting Form of this ITN.

The following summary data must be reported to the Contract Manager on a quarterly basis:

- Total purchases on the contract for the quarter
- Total purchases on the contract for the quarter by Eligible User
- Total purchases for the quarter made using the State's Purchasing Card
- Total Certified Vendor (including Minority, Women, and Service-Disabled Veteran) purchases for the quarter by Eligible User.

The following detailed data must be reported to the Contract Manager on a quarterly basis in Excel spreadsheet format:

- Eligible User (Customer) Entity Name

- Product Category
- Item Description
- Manufacturer Name
- Manufacturer Part Number
- UPC
- Unit of Measure
- Quantity Shipped
- Date Shipped
- List Price
- Invoice Price
- Core Item Flag (indicates if item is on Core Items list)
- P-Card Flag (indicates if transaction was paid for using a P-Card).
- Flag Purchases made within the stores (if applicable)

The Contractor is also responsible for providing the monthly service level agreement reports in Excel spreadsheet format as outlined below:

- On-Time Delivery Rate = Number of orders delivered complete within the 2 business day requirement divided by total number of orders delivered
- Order Fill Rate = Number of orders with order fill rate of more than 95% divided by total number of orders
- Order Accuracy Rate = Number of orders with order accuracy rate of more than 98% divided by total number of orders
- Total Number of Orders Placed, Total Dollar Value of Orders Placed, and Average Value of Orders Placed by Customer.

Failure to provide quarterly sales reports, within thirty (30) calendar days following the end of each quarter (January, April, July, and October) and the monthly service level agreement reports, may result in the Contractor being found in default and may cause termination of the contract. Quarterly submissions of the Contract Reporting Form shall be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor shall submit the completed reports and send by email to the Contract Manager.

#### **5.10 Business Review Meetings**

In order to maintain the partnership between the Department and the Contractor, each quarter the Department may request a business review meeting. The business review meeting may involve, but is not limited to, the following:

- Review of Contractor's performance
- Review of minimum required reports
- Addressing of any elevated Customer issues
- Review of continuous improvement ideas that may help lower total costs and / or improve business efficiencies.

#### **5.11 Price Changes**

The discount proposed for each Product Category of Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items shall remain the same throughout the contract period unless the vendor offers additional volume discounts as outlined in their Best and Final Offer Pricing Proposal. Respondents are required to submit with their response an electronic copy of their complete product list that they intend to provide Customers under any awarded contract. The product list must include Quarter 3 2010 S.P. Richards' list price for products where available. Where there is no S.P. Richards' list price available, the product manufacturer's MSRP shall be listed. If the item is a generic item (e.g., private label), then the Respondent is considered the product manufacturer and their established, reasonable list price shall be listed.

The list prices contained on this initial product list along with the final awarded discount % off list price for Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items will be held fixed until January 21<sup>st</sup> 2011. The discount proposed for each category shall remain the same throughout the term of the contract and all renewal options. All pricing must be verifiable and auditable from the effective date of the contract.

Starting with Q1 2011, January 2011, Contractors shall submit quarterly to the Department for approval an updated product list with list prices that reflect any updates to S.P. Richards' list prices, or product manufacturers' list prices if S. P. Richards is not available, or the Contractor's list price for generic items. Contractors shall submit updated price lists with requested list price increases and decreases to the Contract Administrator on a quarterly basis by January 1, April 1, July 1, and October 1 of each calendar year. The Department shall have at least 15 days to review and approve or deny the requested list price update forms and may request supporting documentation for any price changes. Once approved, the Contractor shall update all systems to reflect the list price increases and decreases by the 21<sup>st</sup> of the first month in the quarter. There will be no retroactive price increases allowed.

#### **5.12 Non-Core Items Revised, Contract Anniversary Pricing (Non-Core to Core Discount)**

Upon each anniversary of the effective date of the contract, the Department will calculate the aggregate spend of all non-generic items across all Contractors. Non-generic items that have aggregated sales of \$10,000 or more that are not already on the Core Items list will be added to the Core Items list for all Contractors. Existing Core Items that do not meet the minimum threshold of \$10,000 will be removed from the Core Items list. If a Contractor does not carry an item designated on the new Core Item list in their full line catalog, the Contractor is not required to provide this item under the contract.

#### **5.13 State Objectives**

Within thirty (30) calendar days following award of the Contract, the successful Respondent shall submit plans addressing each of the State's five (5) objectives listed below, to the extent applicable to the items / services covered by this solicitation.

##### **1. Diversity**

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

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

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

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

<http://dms.myflorida.com/oscd>

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE Contractors (agents or sub-contractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other eligible user) level. (Reference Attachment G – Quarterly Report Form, Tab “CBE Spend Report”).

## **2. Environmental Considerations**

Florida Governor Charlie Crist signed Executive Order 07-126, titled “Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government”; Executive Order 07-127, “Immediate Actions to Reduce Greenhouse Gas Emissions within Florida”; and Executive Order 07-128, “Florida Governor’s Action Team on Energy and Climate Change.”

The State supports and encourages initiatives to protect and preserve our environment. The Prime Contractor shall submit as part of any response the Prime Contractor’s plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Prime Contractor shall also provide a plan for reduction and / or handling of any hazardous waste generated by Prime Contractor’s company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Prime Contractor’s explanation of its company’s hazardous waste plan and shall explain in detail its handling and disposal of this waste.

Describe what efforts your company (as Contractor) will take to encourage the participation and support of these and other environmental programs and reduce the impact of purchasing office and educational consumables in the State of Florida. If applicable, include your plans for utilizing reusable totes for delivery, reduced packaging programs, use of alternative fuel or higher fuel efficient delivery vehicles, program to reduce vehicle miles through order consolidations / incentives, user education programs for more environmental friendly products, programs to reduce usage of Office and Educational Consumables products (e.g., paper), product take-back programs.

## **3. Certification of Drug-Free Workplace Program.**

The State supports and encourages initiatives to keep the workplaces of Florida’s Suppliers and Prime Contractors drug-free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. The Respondent shall certify that they have a drug-free workplace program using the “Certification of Drug-Free Workplace” as provided in MFMP Sourcing Tool for this solicitation. The Prime Contractor shall describe how it will address the implementation of a drug-free workplace in offering the items of the solicitation.

## **4. Products Available from the Blind or Other Handicapped (RESPECT)**

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

The Respondent shall describe how it will address the use of RESPECT in offering the items of the solicitation.

**5. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section 946.515(2), and (4), F.S.; 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 this 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>.

The Prime Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

**5.14 – Best Pricing Comparison**

Contractor represents that the Customer's pricing under this contract as offered for its aggregate spend with Contractor during the prior twelve month period is less than the annual aggregate spend under any other state, regional or local government contract or public sector national or multi-state cooperative agreement or program held by the Contractor ("Comparison Contract"). For purposes of this Best Pricing Offer, "Comparison Contract" is defined as a contract that does not exceed 120% of the annual aggregate spend of this contract with Contractor and has substantially similar items or services that are purchased under similar terms and conditions to this contract. If during the term of this contract, Contractor becomes aware that its pricing for Customer's aggregate spend under this contract with Contractor is higher than it would be under a Comparison Contract, the pricing structure of the Comparison Contract will be offered to the Customer. If during the term of this contract the Customer becomes aware of or has a concern that its pricing for Customer's aggregate spend with Contractor under this contract is higher than it would be under a Comparison Contract, the Customer may request an aggregate price comparison analysis of this contract against the Comparison Contract.

**5.15 Provision not Applicable**

Section 4.5 of the ITN in PUR 1000 does not apply to this solicitation or resulting contract.

**5.16 Preferred Price**

The Contractor agrees to submit at least annually an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision in Section 5.14.

**5.17 Contractor Termination for Convenience**

The Contractor, with 12 months advanced written notice to the Department, may terminate their Contract in whole or in part when the Contractor determines in its sole discretion that it is in the Contractor's interest to do so.

**5.18 Third Party Audits and Reporting Requirements**

The Contractor shall obtain a third party firm at no additional cost to the State to conduct external price audits on this contract. The Contractor shall contract with a third party firm (to be approved by the Department) to conduct a monthly random sampling (a minimum of 570 items per month) of contract items to confirm the accuracy of list price, discount % and net price. Specifically, the third party firm will confirm the prices displayed on the Contractor's website are equal to or less than the contract terms. The third party firm shall provide a monthly report to the Department indicating the Price Accuracy Rate (Price Accuracy Rate = the number of audited items each month where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category) divided by the number of audited items). Also, at a minimum, the monthly report will identify items not in compliance with the contract terms, provide the date of the audit, and screenshots of the Contractor's on-line catalog of all items in the random sample that were not in compliance with the contract terms.

The Contractor shall also Contract with a third party firm (to be approved by the Department) to conduct an annual (on each anniversary of the contract effective date) sampling of Customer invoices (a minimum of 600 customer invoices for the 12 month period) to confirm accuracy of list prices and discount %, and that net prices of invoiced items are equal to or less than the contract terms. Specifically, the third party firm will confirm the price charged to the Customer is equal to or less than the contract terms during that time period. The third party firm shall provide an annual report to the Department indicating the Price Accuracy Rate (Price Accuracy Rate = the number of audited items each year where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category) divided by the number of audited items). Also, at a minimum, the annual report will include copies of the invoices in the random sample that were not in compliance with the contract terms.

#### **5.19 Volume Discounts**

On each anniversary of the contract effective date, the Department will evaluate the total Contractor reported sales for the previous 12 month period. The Department will then review the Contractor's proposed volume discount table submitted in their best and final offer to determine if any additional volume discounts need to be added to their contracted discount percentages for all Product Categories for the next 12 month period. This may include lowering or removing volume discount percentages based on the Contractor's reported sales for the previous 12 month period and the Contractor's proposed volume discount schedule. Updated prices reflecting volume discount changes shall be effective 21 dates after each anniversary of the contract effective date.

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## **SECTION 6.0**

### **TECHNCIAL SPECIFICATIONS**

This section outlines the components required for the Respondents response. This section also identifies the corresponding sections in the MFMP Sourcing Tool identified in parenthesis ().

**6.1 (1.0) CONTACT INFORMATION**

**6.2 (2.0) ITN DOCUMENTS AND ATTACHMENTS**

**6.3 (3.0) TECHNICAL PROPOSAL**

**6.4 (4.0) PRICE PROPOSALS FOR RESPONDENTS OFFERING STATEWIDE OR REGIONAL  
COVERAGE**

**6.5 (5.0) ADDENDA**



**6.1 (1.0) Displays the DMS Contact Person's Information for the Solicitation****6.2 (2.0) Contains Electronic Version of the ITN Document and Attachments****6.3 (3.0) Technical Proposal****6.3.1 (3.1) Qualification Questions - Mandatory Requirements**

Respondents will submit Yes / No answers to each mandatory requirement within the MFMP Sourcing Tool. All of the submitted responses to the qualification questions in the MFMP Sourcing Tool will be reviewed by the Procurement Officer. Respondents must indicate their capability and willingness to meet the following mandatory requirements if awarded the contract. In order to qualify for evaluation for the remaining bid, Respondents must answer "Yes" to the Qualification Questions. **Respondents that answer "No" to any of the mandatory requirements below will not have their remaining Technical or Price proposal scored and will be disqualified to participate in this solicitation.**

<b>Qualification Questions - Mandatory Requirements</b>	
Q1. Do you agree to:	<ul style="list-style-type: none"> <li>• Provide delivery to all locations within your awarded area within 2 business days for orders placed by 4:00 PM</li> <li>• Agree to F.O.B. Destination Freight Prepaid terms</li> <li>• Agree to not impose delivery charges for orders above \$25.00 for the life of the contract, including extensions (excluding deliveries of Furniture)</li> <li>• Agree to not impose a delivery charge greater than \$40.00 for furniture delivery service. The furniture delivery service includes inside delivery, set-up, and removal of packing debris.</li> <li>• Agree to deliver to Customer's desktop, or alternate location as specified by the Customer, at no additional cost</li> </ul>
Q2. Do you agree to maintain the following service level agreements measured on a monthly basis:	<ul style="list-style-type: none"> <li>• Delivery Timing - Maintain on-time delivery rate of 95% or greater. On-time delivery will be defined as delivery of order within two (2) business days of placement of order. This SLA supersedes Section 4.11 Transportation and Delivery of the General Conditions.</li> <li>• Order Accuracy - Maintain order accuracy rate of 98% or greater. Order Accuracy rate is defined as "the number of items delivered as ordered divided by the total number of items ordered."</li> <li>• Order Completeness / Fill - Provide order fill rate of 95% or greater. Order Fill rate is defined as a number of items on an order filled completely as ordered divided by to the total number of lines on an order."</li> <li>• Backorder Fill - Ship backorders within five (5) calendar days of original order, unless special circumstances apply. The following information about the backorder(s) may be requested by the Customer or the Department: item name and product ID, reason for shortage, and plan of action (when delivery may be expected or suggested replacement).</li> <li>• Price Accuracy - Maintain a price accuracy rate of 99.5% or greater. Price Accuracy is defined as the number of audited items each month where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category).</li> </ul>
Q3. Do you agree to provide full credit and no restocking fee to Customers on all returns that meet the following conditions:	<ul style="list-style-type: none"> <li>• All merchandise is in original packaging and in sellable condition. Original packaging may not have Customer's writing on them.</li> <li>• Merchandise is returned within 30 days of delivery.</li> </ul>
Q4. Do you agree to forgo charging a restocking fee to Customers if an item is returned due to damage, incorrect product shipped, or Contractor customer service order entry error?	
Q5. Do you agree to cap restocking fees for all other reasons (other than those listed in question 3 and 4) to be no greater than 10% of the value of the items needing re-stocking.	
Q6. Do you agree to provide the Department's Contract Manager with monthly Microsoft Excel compatible reports that include the following metrics for all purchases made on the awarded contract,	

Qualification Questions - Mandatory Requirements
including monthly, year-to-date, and contract-to-date: <ul style="list-style-type: none"> <li>On-Time Delivery Rate = Number of orders delivered complete within the 2 business day requirement divided by total number of orders delivered</li> <li>Order Fill Rate = Number of orders with order fill rate of more than 95% divided by total number of orders</li> <li>Order Accuracy Rate = Number of orders with order accuracy rate of more than 98% divided by total number of orders</li> <li>Total Number of Orders Placed = Total Dollar Value of Orders Placed, and Average Value of Orders Placed by Customer.</li> </ul>
Q7. Do you agree to provide a primary account management point of contact for each Customer (NOTE: point of contact individual may support multiple Customers)?
Q8. Do you agree to provide customer service representatives and technical resources by phone (toll-free), fax, and email to handle all orders and mitigate order-related technical issues from 8:00 AM to 5:00 PM Eastern Time, Monday through Friday, excluding State of Florida holidays as listed on <a href="http://dms.myflorida.com/human_resource_support/human_resource_management/for_job_applicants?">http://dms.myflorida.com/human_resource_support/human_resource_management/for_job_applicants?</a>
Q9. Do you agree to provide a packing label on the outside of each package shipped that contains the following information at a minimum: Eligible User Entity Name, Delivery Address, Contact Name, and Telephone Number?
Q10. Do you agree to provide a packing slip for all shipments that contains all information on Packing Label specified in question 9 and the following information at a minimum: Line Item Description, Quantity Ordered, Quantity Shipped, Backordered Items, Unit Price and Extension, Number of Parcels, and Purchase Order or Delivery Order Number?
Q11. Do you agree to provide necessary training at no additional costs to all Customers of the awarded contract on all aspects of ordering, product delivery, product returns and customer service processes at the Customer's request?
Q12. Do you agree to not replace any ordered item with an alternate item without the prior consent of the ordering entity (e.g., no forced substitutions) and if the Customer agrees to use a higher-priced item to fill the order, the Customer will be billed at the lower price of the item that was out of stock, not the higher priced item?
Q13. Do you agree to provide a full line catalog with a minimum of 10,000 items that covers the scope of this contract in Section 1.2?
Q14. Do you agree within 30 days of contract award to provide a marketing plan for notifying Customers of the new contract, and to collaborate with the Department throughout the contract to expand use by Eligible Users of the contract?
Q15. Do you agree to provide a punch-out catalog and online ordering portal for State of Florida Customers as outlined in Sections 5.1 and 5.2?

### 6.3.2 (3.2) Evaluation Questions

Respondents will submit their responses to the Evaluative Questions directly into the MFMP Sourcing Tool. Responses will be limited to 4,000 characters (including spacing) per question. In order for the Evaluation Questions to be evaluated, the following instructions shall be adhered to by the Respondent:

- The tool limits responses to plain text size and format. The responses cannot be formatted by the Respondent (including bold, italicizing, underlining, and text size)
- Do not include organizational brochures or other promotional materials, slides, films, clips, books, videotapes, or CDs, as they are not easily reproduced and are therefore inaccessible to the evaluators.

Evaluation Questions
Q1. Describe the customer service team that will be dedicated to the State of Florida account, including the team structure and how State of Florida users will be able to contact your company for customer service.
Q2. Describe your company's disaster recovery capabilities that minimize the risk of your online ordering system / punch-out site being unavailable, and how your company minimizes the risk of critical user and ordering data being permanently lost or sensitive data (e.g., credit card information) disclosed.

Evaluation Questions
Q3. Describe your company's capabilities to support Florida Customers to resume operations after a disaster.
Q4. Indicate how many retail stores (if any) that your company has in the State of Florida. Describe your ability to support Customers with retail stores and how you will honor State of Florida contract prices for Customers that make in-store purchases.
Q5. The State of Florida seeks an efficient process to help users identify items on the contract that are: (1) Lowest Price Items, (2) Core Items, (3) Items containing recycled material, (4) Items eligible to be on the Florida Climate Friendly Products List (See Section 5.13.2 of the ITN for details). How will your company identify Lowest Price, Core, Recycled and Climate Friendly items on your punch-out and online catalogs?
Q6. Explain your company's online reporting capabilities that you will provide State of Florida Customers. Does your company offer online standard and ad hoc reports, including shipping information, purchase order history, total purchases by user / location / entity?
Q7. Explain how your company will support the contract transition process on both the front-end and back-end of the contract.

### 6.3.3 (3.3) Financial Section - Supplier Qualifier Report (SQR)

The Department requires submission of the Respondent's Supplier Qualifier Report (SQR) prepared by Dun & Bradstreet (D&B). The Supplier Qualifier Report is a standard report detailing financial and operational capability.

The Respondent shall request the SQR report from D&B at:

<https://sor.dnb.com/sor/jsp/forms/SOF.jsp?SORTAG1=JQ37hS4r&SORTAG2=j58Gjk4x>

- i Enter the ITN number in the text field entitled "Enter your ITN Number" and select submit.
- ii Enter your company's Duns Number, If you don't know your company's Duns number, you may use the search feature to find it.
- iii Confirm Registration.
- iv Enter payment method and information and complete registration. The cost of the preparation of the D&B report shall be the responsibility of the Respondent.
- v Choose the drop-down box to have the report sent to the Department of Management Services.

Once the process is complete, an electronic copy of the SQR report will be submitted as part of the Respondent's response within the MFMP Sourcing Tool. The Respondent is required to keep a copy of the submitted report and submit the copy with their response.

Since the SQR report shall be a part of the Respondent's response, Respondents are advised to allow sufficient time before the proposal due date for the D&B processing. Respondents should allow a minimum of 10 business days for D&B to process the report.

If a D&B SQR report cannot be generated by D&B, the submission will receive a score of zero (0) (Highest Risk Rating) for financial status. The Department may request additional financial information from Respondents including (but not be limited to): P/L Statements, Balance Sheets, and other corporate financial reports.

### 6.3.4 (3.4) References Section: Attachment A – Reference Check Forms

The Respondent shall submit two (2) Reference Check Forms using Attachment A – Reference Check Form from two (2) different customers who have received office and educational consumables from the Respondent within the past three (3) years. References should be from government and / or educational entities with similar estimated annual purchases as specified in Section 1.2 and 1.3 where the Respondent has provided products and services similar to those outlined in this solicitation. Respondents shall download the forms, have their customers fill out the forms completely, and the Respondents shall upload the completed Reference Check Forms into the MFMP Sourcing Tool.

**6.3.5 (3.5) Required Forms and Additional Information**

The Respondent is required to download forms listed below from the MFMP Sourcing Tool, fill them out and submit the forms with their response. Respondents are encouraged to add their company name to the name of the file before uploading the final forms to the MFMP Sourcing Tool. If the Respondent does not submit these forms as part of the response, they may be deemed non-responsive. The required forms to be submitted include:

**(3.5.1) Attachment B - Certification of Drug Free Workplace Program Form****(3.5.2) Attachment C - Department of State Registration Form / Authority to Do Business in the State of Florida****(3.5.3) Attachment D - Ordering Instructions****(3.5.4) Respondent's Proposed Catalog With List Prices**

Respondents are also required to submit with their response an electronic copy of their complete product list that they intend to provide Customers under the awarded contract. This product list will not be used in the evaluation of the Respondents' Proposal. This price list will serve as the Contractor's catalog and list prices for the first year of the awarded contract. The product list must include Quarter 1 2010 S.P. Richards' list price for products. Where there is no S.P. Richards' list price available, the product manufacturer's MSRP shall be listed. If the item is a generic item (e.g., private label), then the Respondent is considered the product manufacturer and their established, reasonable list price shall be listed. At minimum Respondents should include the following fields in the submitted report: Product Category per the Departments categories outlined in Section 1.2, Item Description, Item Manufacturer, Item Manufacturer Number, Unit of Measure, UPC, Quarter 1 2010 List Price.

**6.4 (4.0) Price Proposal for Respondents Offering Regional or Statewide Coverage****6.4.1 Respondents Offering Statewide Coverage (Attachment E – Statewide Pricing Proposal Tool)**

Respondents offering statewide coverage shall submit their Price Proposal using Attachment E – Statewide Pricing Proposal Tool in the MFMP Sourcing Tool as instructed in this solicitation. Each Price Proposal will be composed of four components: Core Item Pricing, Non-Core Item Pricing, Generic Core Item Pricing, and Generic Non-Core Item Pricing. The Respondents shall also fill out the required worksheets "Audit Costs" and "Volume Discounts". These two worksheets will not be scored in the evaluation of the Price Proposal but Respondents are to complete these worksheets in order to be deemed responsive. The Price Proposals will not be opened until the Respondents' Technical Proposals have been scored.

For all Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items, there shall be no Gross Profit Floors or Cost Floors allowed. The final proposed Product Category discount % accepted by the Department will be applied to the List Price of items within the Product Category to determine final cost to Customers during the life of the contract.

Using historical spend data, the Department categorized the items purchased in 2009 into these four components. The table below represents the estimated value of items purchased within each component.

	Core Item	Non-Core Item
Name-Branded Item	37%	45%
Generic Item	10%	8%
<b>Totals</b>	<b>47%</b>	<b>53%</b>

The four components, Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items are defined below.

Core Items:

The Core Items are products that represent approximately 37% of the current contract's annual spend on Office and Educational Consumables. The following information is provided for all items: Item Index Number, Product Category, Product Sub-Category, S.P. Richards Part Number, Item Description (with link to S.P. Richards' website for more details), Item Unit of Measure, Estimated Annual Usage, and Quarter 1 2010 S.P. Richards' List Price.

Non-Core Items:

The Non-Core Items represent approximately 45% of the current contract's annual spend on Office and Educational Consumables. Due to the relatively low volume of each of these numerous individual products, no specific item information is provided.

Generic Core Items:

The Generic Core Items (private label products) represent approximately 10% of the current annual spend on Office and Educational Consumables. The following information is provided for all Generic Core Items: Item Index Number, Product Category, Product Sub-Category, and Item Description (with link to Office Depot website for more details on current generic products where available), Item Unit of Measure, and Estimated Annual Usage.

Generic Non-Core Items:

The Generic Non-Core (private label products) represents approximately 8% of the current annual spend on Office and Educational Consumables. Due to the relatively low volume of the numerous Generic Non-Core Items, no specific information is provided.

The Department has divided historical items purchased into seven Product Categories as outlined in Section 1.2. The table below outlines how the Product Categories fall into the four pricing components.

Product Category	Core Items	Non-Core Items	Generic Core Items	Generic Non-Core Items
Consumables	Yes	Yes	Yes	Yes
Paper	No	Yes	Yes	Yes
Toner – HP	Yes	Yes	No	No
Toner – Non-HP	Yes	Yes	No	No
Toner - Remanufactured	No	Yes	Yes	Yes
IT Peripherals	Yes	Yes	Yes	Yes
Equipment	Yes	Yes	Yes	Yes

An overview of each worksheet in Attachment E – Statewide Pricing Tool is outlined below:

1<sup>st</sup> Tab - Instructions

Detailed instructions on how to use the Pricing Proposal Tool are contained on the first worksheet called Instructions.

2<sup>nd</sup> Tab – A - Core Items Pricing

For the items contained in the A - Core Items worksheet, Respondents shall submit discounts off of Quarter 1 2010 S.P. Richards' List Price by provided Product Category. The Proposed Unit Net Price for each item will remain fixed for the first year of the contract. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive. The proposed discounts off of S.P. Richards List Price will remain fixed for the length of the contract, and for the duration of any extensions.

3<sup>rd</sup> Tab B- Non-Core Items Pricing

Respondents shall submit a proposed percentage discount from the Estimated Annual Extended List Price by provided Product Category to be applied to the remaining non-generic items that are in the scope of this solicitation that the Respondent intends to provide Eligible Users. This discount will remain fixed for the entire life of the contract, including any extensions. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive.

4<sup>th</sup> Tab C- Generic Core Items Pricing



For every item contained in the Generic Core Items worksheet, Respondents shall submit proposed products that are equal to or higher quality than the items listed and are the same unit of measure as the listed item. For the Generic Core Items that are from the current contract, a link to the Contractor's website with more detailed product description and specifications is provided by clicking on the Item Description in blue text. For generic paper product category items, the basic product specifications are contained in the Item Description field.

The following information shall be submitted by Respondents for every Generic Core Item listed: Proposed Item Manufacturer Name, Proposed Item Manufacturer Part Number, Proposed Item UPC, Proposed Item Unit of Measure, and Proposed Item Unit List Price. Respondents shall also submit a proposed percentage discount from the List Price by provided Product Category to be applied to the listed Generic Items proposed in the Generic Core Items worksheet.

The proposed Generic Core Item Category discount percentages will apply to all generic items that are in the scope of this solicitation that the Respondent intends to provide Eligible Users. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive. The proposed discounts off of List Price will remain fixed for the length of the contract, and the duration of any extensions.

#### 5<sup>th</sup> Tab D - Generic Non-Core Items Pricing

The same Product Category discount percentages proposed for Generic Core Items will be applied to the Estimated Annual Extended List Price for Generic Non-Core items. This discount will remain fixed for the entire life of the contract, including any extensions. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive.

#### 6<sup>th</sup> Tab Total Price Proposal #1

This sheet will indicate the sum of the Total Extended Net Price subtotals from A - Core Items, B - Non-Core Items, C - Generic Core Items, and D - Generic Non-Core Items. Be sure that the cells D8 through D12 are shaded green. If any of these cells are shaded red, you will need to go to the applicable worksheet and make sure you have entered required information in all yellow-shaded cells. The amount in cell B13 is your Total Price Proposal #1.

#### 7<sup>th</sup> Tab Total Price Proposal #2

Respondents will fill in the % discount off list price by product category that you propose if the Department chooses to award to multiple Respondents. The % discounts in this table are applied to the Total Estimated Extended List Price. Be sure that there are no cells marked "Missing Data". If any of these cells F10 through F21 and F23 through F28 are shaded red, you will need to make sure you have entered required information in all yellow-shaded cells. The amount in cell E29 is your Total Price Proposal #2.

#### 8<sup>th</sup> Tab Audit Costs

The Department is interested in determining Respondent's cost for implementing external auditing on this contract. The Department requires Respondents to provide a value estimating the Respondent's cost to obtain these 3rd party auditing services if awarded the contract. This section will not be scored and it is for information purposes only. The Department requests Respondents to provide pricing on Price Proposal #1 and Price Proposal #2 exclusive of the audit option. If the Department chooses to incorporate the auditing services as described, it will be discussed with Respondents during negotiations and Respondents will have the opportunity to refine their pricing before the Best and Final Offers are due. Entry of the amount in the table is required for a Respondent's Price Proposal to be considered responsive.

#### 9<sup>th</sup> Tab Volume Discounts



Respondents shall propose any additional discount % you will provide all Eligible Users when total annual spend of all Eligible Users on the contract exceeds the listed amounts in cells A8 through A21. Discount amounts entered in this table would be added to all current product category discounts for Core Items, Non-Core Items, and Generic Items for balance of contract period, including any extensions. Entry of discount amounts in the table is required for a Respondent's Price Proposal to be considered responsive. If Respondents are not willing to offer additional discounts, their response should reflect 0% in the required cells.

#### 6.4.2 Respondents Offering Regional Coverage (Attachment F – Regional Pricing Proposal Tool)

Respondents shall submit a Price Proposal composed of four components: Core Item Pricing, Non-Core Item Pricing, Generic Core Item Pricing, and Generic Non-Core Item Pricing as specified in Attachment F – Regional Pricing Proposal Tool. The Price Proposals will not be opened until the Technical proposals have been scored. Respondents shall use Attachment F – Regional Pricing Proposal Tool to submit their Price Proposal in the MFMP Sourcing Tool as instructed in this solicitation. Respondents able to cover all Regions shall submit their proposal using Attachment E – Statewide Pricing Proposal Tool. The four components, Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items, are defined below.

For all Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items, there shall be no Gross Profit Floors or Cost Floors allowed. The final proposed Product Category discount % accepted by the Department will be applied to the List Price of items within the Product Category to determine final cost to Customers during the life of the contract.

Using historical spend data, the Department categorized the items purchased in 2009 into these four components. The table below represents the estimated value of items purchased within each component.

Respondents offering regional coverage will be limited to delivering to Customers with ship-to addresses in the region(s) proposed.

	Core Item	Non-Core Item
Name-Branded Item	37%	45%
Generic Item	10%	8%
<b>Totals</b>	<b>47%</b>	<b>53%</b>

The four components, Core Items, Non-Core Items, Generic Core Items, and Generic Non-Core Items are defined below.

##### Core Items:

The Core Items are products that represent approximately 37% of the current contract's annual spend on Office and Educational Consumables. The following information is provided for all items: Item Index Number, Product Category, Product Sub-Category, S.P. Richards Part Number, Item Description (with link to S.P. Richards' website for more details), Item Unit of Measure, Estimated Annual Usage, and Quarter 1 2010 S.P. Richards' List Price.

##### Non-Core Items:

The Non-Core Items represent approximately 45% of the current contract's annual spend on Office and Educational Consumables. Due to the relatively low volume of each of these numerous individual products, no specific item information is provided.

##### Generic Core Items:

The Generic Core Items (private label products) represent approximately 10% of the current annual spend on Office and Educational Consumables. The following information is provided for all Generic Core Items: Item Index Number, Product Category, Product Sub-Category, and Item Description (with link to Office Depot website for more details on current generic products where available), Item Unit of Measure, and Estimated Annual Usage.

Generic Non-Core Items:

The Generic Non-Core (private label products) represents approximately 8% of the current annual spend on Office and Educational Consumables. Due to the relatively low volume of the numerous Generic Non-Core Items, no specific information is provided.

The Department has divided historical items purchased into seven Product Categories as outlined in Section 1.2. The table below outlines how the Product Categories fall into the four pricing components.

<b>Product Category</b>	<b>Core Items</b>	<b>Non-Core Items</b>	<b>Generic Core Items</b>	<b>Generic Non-Core Items</b>
Consumables	Yes	Yes	Yes	Yes
Paper	No	Yes	Yes	Yes
Toner – HP	Yes	Yes	No	No
Toner – Non-HP	Yes	Yes	No	No
Toner - Remanufactured	No	Yes	Yes	Yes
IT Peripherals	Yes	Yes	Yes	Yes
Equipment	Yes	Yes	Yes	Yes

An overview of worksheets in Attachment F – Regional Pricing Tool is outlined below:

1<sup>st</sup> Tab - Instructions

Detailed instructions on how to use the Pricing Proposal Tool are contained on the first worksheet called Instructions.

2<sup>nd</sup> Tab – Regions

This spreadsheet requires you to indicate which regions you are submitting a Price Proposal for by placing a Yes next to the applicable region(s). Refer to the map and table at the bottom of this worksheet to see which counties are included in each region. Respondents shall provide coverage for all areas in a region that they submit in this Price Proposal. Respondents able to cover all Regions shall submit their proposal using Attachment E – Statewide Pricing Proposal Tool.

3<sup>rd</sup> Tab A - Core Items Pricing

For the items contained in the A - Core Items worksheet, Respondents shall submit discounts off of Quarter 1 2010 S.P. Richards' List Price by provided Product Category. The Proposed Unit Net Price for each item will remain fixed for the first year of the contract. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive. The proposed discounts off of S.P. Richards List Price will remain fixed for the length of the contract, and for the duration of any extensions

4<sup>th</sup> Tab B - Non-Core Items Pricing

Respondents shall submit a proposed percentage discount from the Estimated Annual Extended List Price by provided Product Category to be applied to the remaining non-generic items that are in the scope of this solicitation that the Respondent intends to provide Eligible Users. This discount will remain fixed for the entire life of the contract, including any extensions. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive.

5<sup>th</sup> Tab C - Generic Core Items Pricing

For every item contained in the Generic Core Items worksheet, Respondents shall submit proposed products that are equal to or higher quality than the items listed and are the

same unit of measure as the listed item. For the Generic Core Items that are from the current contract, a link to the Contractor's website with more detailed product description and specifications is provided by clicking on the Item Description in blue text. For generic paper product category items, the basic product specifications are contained in the Item Description field.

The following information shall be submitted by Respondents for every Generic Core Item listed: Proposed Item Manufacturer Name, Proposed Item Manufacturer Part Number, Proposed Item UPC, Proposed Item Unit of Measure, and Proposed Item Unit List Price. Respondents shall also submit a proposed percentage discount from the List Price by provided Product Category to be applied to the listed Generic Items proposed in the Generic Core Items worksheet.

The proposed Generic Core Item Category discount percentages will apply to all generic items that are in the scope of this solicitation that the Respondent intends to provide Eligible Users. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive. The proposed discounts off of List Price will remain fixed for the length of the contract, and the duration of any extensions.

#### 6<sup>th</sup> Tab D - Generic Non-Core Items Pricing

The same Product Category discount percentages proposed for Generic Core Items will be applied to the Estimated Annual Extended List Price for Generic Non-Core items. This discount will remain fixed for the entire life of the contract, including any extensions. Discounts must be submitted for every Product Category in order for a Respondent's Price Proposal submission to be deemed responsive.

#### 7<sup>th</sup> Tab Total Price Proposal

This sheet will indicate the sum of the Total Extended Net Price subtotals from A - Core Items, B - Non-Core Items, C - Generic Core Items, and D - Generic Non-Core Items. Be sure that the cells D8 through D12 are shaded green. If any of these cells are shaded red, you will need to go to the applicable worksheet and make sure you have entered required information in all yellow-shaded cells. The amount in cell B13 is your Total Price Proposal.

#### 8<sup>th</sup> Tab Audit Costs

The Department is interested in determining Respondent's cost for implementing external auditing on this contract. The Department requires Respondents to provide a value estimating the Respondent's cost to obtain these 3rd party auditing services if awarded the contract. This section will not be scored and it is for information purposes only. The Department requests Respondents to provide pricing on Price Proposal #1 and Price Proposal #2 exclusive of the audit option. If the Department chooses to incorporate the auditing services as described, it will be discussed with Respondents during negotiations and Respondents will have the opportunity to refine their pricing before the Best and Final Offers are due. Entry of the amount in the table is required for a Respondent's Price Proposal to be considered responsive.

#### 9<sup>th</sup> Tab Volume Discounts

Respondents shall propose any additional discount % you will provide all Eligible Users when total annual spend of all Eligible Users on the contract exceeds the listed amounts in cells A8 through A21. Discount amounts entered in this table would be added to all current product category discounts for Core Items, Non-Core Items, and Generic Items for balance of contract period, including any extensions. Entry of discount amounts in the table is required for a Respondent's Price Proposal to be considered responsive. If Respondents are not willing to offer additional discounts, their response should reflect 0% in the required cells.

## **6.5 (5.0) Notice, Addenda and Amendments**

If Addenda are issued for the ITN, they will be contained within this section of the MFMP Sourcing Tool.

## **SECTION 7.0**

### **EVALUATION AND SELECTION**

**7.1 TECHNICAL PROPOSAL**

**7.2 PRICE PROPOSAL**

**7.3 NEGOTIATIONS**

## 7.1 The Technical Proposal

The Technical Proposal consists of qualification questions, financial, reference, and evaluative questions. The Technical Proposal is worth 400 points of the overall 1000 points. All Respondents' Technical Proposals will be opened and scored before the Respondents' Price Proposals are opened. Only Respondents scoring 280 points or more on their Technical Proposals will have their Price Proposals scored.

### 7.1.1 Qualification Questions – Mandatory Requirements

All of the submitted responses to the qualification questions in the MFMP Sourcing Tool will be reviewed by the Procurement Officer. Respondents must indicate their capability and willingness to meet the following mandatory requirements if awarded the contract. In order to qualify for evaluation for the remaining bid, Respondents must answer "Yes" to each of the Qualification Questions. **Respondents that answer "No" to any of the mandatory requirements will not have their remaining Technical Proposal or Price Proposal scored and will be disqualified to participate further in this solicitation.**

### 7.1.2 Evaluation Questions

This section is worth 250 points in the Technical Proposal. Each Question will be assigned points based evaluation criteria outlined below:

Evaluation Questions
<p>Q1. Describe the customer service team that will be dedicated to the State of Florida account, including the team structure and how State of Florida users will be able to contact your company for customer service. <b>Maximum 40 Points</b></p>
<p>0 - No dedicated customer service structure, or no response.            10 - Poorly defined customer service structure / process (e.g., no designated team lead, or designated team lead with less than 2 years experience managing large customer accounts)            20 - Well defined, standard customer service structure / process (e.g., designated team lead with 2-5 years experience managing large customer accounts, easy process for customers to contact customer service)            30 - Well defined, Florida specific customer service structure / process (e.g., designated team lead has 5+ years experience managing large customer accounts, dedicated pool of customer services representatives that are trained specifically to handle State customer inquiries, established continuous improvement program that includes conducting customer surveys, and easy process for customers to get self-help via website and / or contact customer service)            40 - Exceptionally well defined, Florida specific customer service structure / process (e.g., designated team lead has 5+ years experience managing large customer accounts, dedicated pool of customer services representatives that are trained specifically to handle State customer inquiries, established continuous improvement program that includes conducting customer surveys, easy process for customers to get self-help via website and / or contact customer service, and offers additional capabilities to provide strong service to State of Florida customers)</p>
<p>Q2. Describe your company's disaster recovery capabilities that minimize the risk of your online ordering system / punch-out site being unavailable, and how your company minimizes the risk of critical user and ordering data being permanently lost or sensitive data (e.g., credit card information) disclosed. <b>Maximum 30 Points</b></p>
<p>0 - No disaster recovery or data security capabilities, or no response            10 - Poorly defined disaster recovery and data security capabilities and process            20 - Well defined standard disaster recovery and data security capabilities and process            30 - Well defined Florida-specific disaster recovery and data security capabilities and process that provide strong solution to minimize system unavailability and loss / theft of critical data</p>
<p>Q3. Describe your company's capabilities to support Florida customers to resume operations after a disaster. <b>Maximum 30 Points</b></p>

Evaluation Questions
<p>0 - No post-disaster support capabilities, or no response  10 - Poorly defined post-disaster support capabilities and process  20 - Well defined standard post-disaster support capabilities and process  30 - Well defined Florida-specific post-disaster support capabilities and process that will enable government and educational entities' to procure office and educational consumables they need to resume operations after a disaster</p>
<p>Q4. Indicate how many retail stores (if any) that your company has in the State of Florida. Describe your ability to support customers with retail stores and how you will honor State of Florida contract prices for customers that make in-store purchases. <b>Maximum 30 Points</b></p>
<p>0 - Has no retail stores in Florida, or no response  5 - Has less than 10 retail stores in Florida and does not have the ability to provide customers with contract pricing in stores  10 - Has more than 10 retail stores in Florida, but does not have the ability to provide customers with contract pricing in stores  20 - Has less than 10 retail stores in Florida and has the ability to provide customers with contract pricing in stores  30 - Has more than 10 retail stores in Florida and has the ability to provide customers with the lower of contract pricing or retail pricing in stores</p>
<p>Q5. The State of Florida seeks an efficient process to help users identify items on the contract that are: (1) Lowest Price Items, (2) Core Items, (3) Items containing recycled material, (4) Items eligible to be on the Florida Climate Friendly Products List (See Section 5.13.2 of the ITN for details). How will your company identify Lowest Price, Core, Recycled and Climate Friendly items on your punch-out and online catalogs? <b>Maximum 50 Points</b></p>
<p>0 - No capability to identify any of these requested functions on their punch-out and online catalogs, or no response  10 - Only able to provide one of the requested functions on both their punch-out site and online catalogs  20 - Able to provide two of the requested functions on both their punch-out site and online catalogs  30 - Able to provide three of the requested functions on both their punch-out site and online catalogs  40 - Able to provide all of the requested functions on both their punch-out site and online catalogs  50 - Able to provide all of the requested functions on both their punch-out site and online catalogs, and provides additional capabilities that will help Eligible Users identify high value, environmentally friendly products</p>
<p>Q6. Explain your company's online reporting capabilities that you will provide State of Florida Customers. Does your company offer online standard and ad hoc reports, including shipping information, purchase order history, total purchases by user / location / entity? <b>Maximum 40 Points</b></p>
<p>0 – No online reporting capabilities or no response  10 – Very limited online reporting capabilities relative to other qualified responses  20 – Ability to provide requested standard online reports (e.g., shipping information, purchase order history, total purchases by user / location / entity)  30 – Ability to provide requested standard online reports and offers additional reporting capabilities that will provide some benefit the Department and Eligible Users  40 – Ability to provide requested standard online reports and offers additional reporting capabilities that will exceptional benefit the Department and Eligible Users</p>
<p>Q7. Explain how your company will support the contract transition process on both the front-end and back-end of the contract. <b>Maximum 30 Points</b></p>
<p>0 - Not willing to support contract transition or no response  5 - Provides unclear / or only general approach to supporting contract transition  10 - Provides clearly defined standard approach to supporting contract transition(e.g., submits a detailed standard contract transition plan that includes key activities, primary owner, estimated start and end dates, major deliverables, etc. Response does not provide insights to how they will support end-of-contract transition)  20 - Provides very detailed, standard approach to supporting both front-end and back-end contract transition (e.g., includes standard work plan, lessons learned from previous implementations, critical success factors, and key implementation related roles on both the vendor and state side, with responsibilities. Regarding end of contract transition provides standard plan on how they will support transitioning business to a new vendor, including providing listing of current user account information in</p>



### Evaluation Questions

electronic format to the State, etc.)

30 - Provides extremely detailed, Florida-specific approach to supporting both front-end and back-end contract transition (e.g., includes standard workplan, lessons learned from previous implementations, critical success factors, and key implementation related roles on both the vendor and state side, with responsibilities. Regarding end of contract transition, provides Florida-specific plan on how they will support transitioning business to a new vendor, including providing listing of current user account information in electronic format to the State, etc.)

#### 7.1.3 Financial Section - Supplier Qualifier Report (SQR)

The Financial Section is worth 100 points of the Technical Proposal. If the Respondent does not provide a D&B SQR report, or if one cannot be generated by D&B, the submission will receive a score of zero (0) (Highest Risk Rating) for financial status. The Department will use the following rating scale when evaluating the financial viability of the prospective Contractor:

SQR Risk Score	Points Assigned
8 – 9	0
7	20
6	40
5	60
4	80
1 – 3	100

#### 7.1.4 References Section:

The References Section is worth 50 points of the Technical Proposal. The Respondent shall submit two (2) Reference Check Forms using Attachment A – Reference Check Form from two (2) different businesses who have received office and educational consumables from the Respondent within the past three (3) years. Each form will be worth a total of 25 points. References should be from government and / or educational entities with similar estimated annual purchases where the Respondent has provided products and services similar to those outlined in this solicitation. Each Reference Check Form will be scored by the Department in accordance with the ratings received by the Respondent's selected references and in accordance with the following scale:

Reference Check Outcome	Points Assigned
Failure to a submit Reference Check Form	0
0.01-1.99 Poor	5
2.00-2.99 Fair	10
3.00-3.99 Adequate	15
4.00-4.49 Very Good	20
4.50-5.00 Excellent	25

Any missing ratings, missing forms, or illegible information will result in zero (0) points assigned for the missing or illegible item. Each Respondent's References Score is determined by calculating the average of ratings from all Reference Forms. The Department may contact references and verify information.

#### 7.1.5 Required Forms and Additional Information

The Respondent is required to submit the forms listed below with their response. If the Respondent does not submit these forms as part of the response they will be deemed unresponsive. The Required Forms and additional information to be submitted include:

- Attachment B - Certification of Drug Free Workplace Program Form

- Attachment C - Department of State Registration Form / Authority to Do Business in the State of Florida
- Attachment D - Ordering Instructions
- Respondent's Proposed Catalog With List Prices

## 7.2 The Price Proposal

The Price Proposal is worth 600 points out of the overall 1000 points. Only Respondents scoring 280 points or more on the Technical Proposal will have their Price Proposals scored. The Price Proposals will not be opened until the Technical proposals have been scored. Respondents offering statewide coverage shall use Attachment E – Statewide Pricing Proposal Tool and Respondents offering regional coverage shall use Attachment F – Regional Pricing Proposal Tool to submit their Price Proposals in the MFMP Sourcing Tool as instructed in this solicitation.

**Respondents Offering Statewide Coverage:** The Department requires Respondents offering statewide coverage to submit Price Proposals on Attachment E- Statewide Price Proposal Tool. Respondents must fill out all the tabs on the attachment. Respondents shall use the tab titled "Price Proposal #1" to reflect their price if the Department chooses to award the contract to a single Respondent. Respondents shall use the tab titled "Price Proposal #2" to reflect their price if the Department chooses to award the contract to multiple Respondents. Respondents are required to complete both Price Proposals.

**Price Proposal #1** The Respondent with the lowest responsive Price Proposal#1 shall receive the maximum 600 points. All other qualified Respondents' final Price Proposals that are deemed responsive by the Department shall receive a prorated amount of the maximum 600 points. Remaining Respondents' points shall be calculated by determining the percentage difference between the lowest Respondent's Price Proposal and the remaining Respondents' Price Proposals. The percentage difference shall be deducted from 100% and multiplied by 600 to determine the number of points that each remaining Respondent shall receive.

**Price Proposal #2** The Respondent with the lowest responsive Price Proposal#2 shall receive the maximum 600 points. All other qualified Respondents' final Price Proposals that are deemed responsive by the Department shall receive a prorated amount of the maximum 600 points. Remaining Respondents' points shall be calculated by determining the percentage difference between the lowest Respondent's Price Proposal and the remaining Respondents' Price Proposals. The percentage difference shall be deducted from 100% and multiplied by 600 to determine the number of points that each remaining Respondent shall receive.

### Price Proposal Scoring Example (applies to Price Proposal#1 and Price Proposal #2)

#### Assumptions:

Lowest Respondent's final validated Price Proposal:	\$19,000,000
Respondent 2 final validated Price Proposal:	\$22,000,000

#### Calculations:

1. Determine percent difference between Respondent 2 and Respondent 1:  $(\text{Respondent 2 Price Proposal} - \text{Respondent 1 Price Proposal}) / \text{Respondent 1 Price Proposal} = (\$22,000,000 - \$19,000,000) / \$19,000,000 = 15.79\%$
2. Determine Prorated Points for Respondent 2:  $100\% - 15.79\% = 84.21\%$ .  
Calculate Points for Respondent 2:  $84.21\% \times 600 = 505.26$  points

**Respondents Offering Only Regional Coverage:** Only Respondents scoring 280 points or more on the Technical Proposal will have their Price Proposals scored. The Department requires Respondents offering regional coverage to submit a Price Proposal on Attachment F- Regional Price Proposal Tool. Respondents must fill out all the tabs on the attachment and indicate what regions they propose to cover. If the Respondent is able to cover all four (4) regions in the state, the respondent must submit Price proposals using the Attachment E – Statewide Pricing Proposal.

The Respondent with the lowest responsive Price Proposal in each region (Regions 1, 2, 3 and 4) shall receive the maximum 600 points. All other qualified Respondents' final Price Proposals in each region that are deemed responsive by the Department shall receive a prorated amount of the maximum 600 points. Remaining Respondents' points shall be calculated by determining the percentage difference between the lowest Respondent's Price Proposal and the remaining Respondents' Price Proposals. The percentage difference shall be deducted from 100% and multiplied by 600 to determine the number of points that each remaining Respondent shall receive.

#### Price Proposal Scoring Example for Regions 1, 2, 3, and 4

##### Assumptions:

Lowest Respondent's final validated Price Proposal:	\$19,000,000
Respondent 2 final validated Price Proposal:	\$22,000,000

##### Calculations:

1. Determine percent difference between Respondent 2 and Respondent 1:  $(\text{Respondent 2 Price Proposal} - \text{Respondent 1 Price Proposal}) / \text{Respondent 1 Price Proposal} = (\$22,000,000 - \$19,000,000) / \$19,000,000 = 15.79\%$
2. Determine Prorated Points for Respondent 2:  $100\% - 15.79\% = 84.21\%$ .  
Calculate Points for Respondent 2:  $84.21\% \times 600 = 505.26$  points

### 7.3 Negotiations

The Department intends to have discussions with up to the top three highest scoring Respondents under each award option to discuss their Technical and Price Proposals. The Department reserves the right to conduct negotiations with more or less than three Respondents if it is deemed in the best interest of the State. Discussions will focus on identifying potential opportunities for improvement of value delivered to the State. Respondents will be provided with the opportunity to submit best and final Technical and Price Proposals. The Department will then evaluate resubmitted Price Proposals to determine the award decision. The Department reserves the right to finalize the negotiations at any point and post an "Intent to Award" notice.

**Respondents Offering Statewide Coverage:** After analysis and ranking of Respondents under both Score A and Score B as outlined in Section 3.1.2. The Department reserves the right to negotiate, either serially or concurrently, with the top three scoring Respondents providing statewide coverage under Score A - Single Award and the top three offering statewide under Score B - Multiple Award.

**Respondents Offering Only Regional Coverage:** After analysis and ranking of Respondents under the each of the 4 Region Scores, the Department intends to negotiate with only the top scoring Respondent in each region.

## **Section 8.0**

### **Attachments**

#### **8.1 Attachment A - Reference Check Form**

#### **8.2 Attachment B - Certification of Drug-Free Workplace Program**

#### **8.3 Attachment C - Authority to Do Business in the State of Florida**

#### **8.4 Attachment D - Ordering Instructions**

#### **8.5 Attachment E – Statewide Pricing Proposal Tool**

- 1<sup>st</sup> Tab "Instructions" on Completing Pricing Proposals Sheets
- 2<sup>nd</sup> Tab "A-Core Items" – must be filled out
- 3<sup>rd</sup> Tab "B-Non-Core" – must be filled out
- 4<sup>th</sup> Tab "C-Generic Core Items" – must be filled out
- 5<sup>th</sup> Tab "D-Generic Non-Core Items" - must be filled out - Will automatically be populated by tab D
- 6<sup>th</sup> Tab "Total Price Proposal #1" - must be filled out - Will automatically be populated by tabs "A-Core Items", "B-Non-Core", "C-Generic Core Items", and "D-Generic Non-Core Items"
- 7<sup>th</sup> Tab "Total Price Proposal #2" – must be filled out
- 8<sup>th</sup> Tab "Audit Costs" – must be filled out
- 9<sup>th</sup> Tab "Volume Discounts" – must be filled out

#### **8.6 Attachment F – Regional Pricing Proposal Tool**

- 1<sup>st</sup> Tab "Instructions" on Completing Pricing Proposal Sheets
- 2<sup>nd</sup> Tab "Regions" – must be filled out
- 3<sup>rd</sup> Tab "A-Core Items" – must be filled out
- 4<sup>th</sup> Tab "B-Non-Core" – must be filled out
- 5<sup>th</sup> Tab "C-Generic Core Items" – must be filled out
- 6<sup>th</sup> Tab "D-Generic Non-Core Items" - must be filled out - Will automatically be populated by tab D
- 7<sup>th</sup> Tab "Total Price Proposal" – must be filled out - Will automatically be populated by tabs "A-Core Items", "B-Non-Core", "C-Generic Core Items", and "D-Generic Non-Core Items"
- 8<sup>th</sup> Tab "Audit Costs" – must be filled out
- 9<sup>th</sup> Tab "Volume Discounts" – must be filled out

#### **8.7 Attachment G - Quarterly Report Form**

- 1<sup>st</sup> Tab "Instructions"
- 2<sup>nd</sup> Tab "Contract Quarterly Report"
- 3<sup>rd</sup> Tab "CBE Spend Report"
- 4<sup>th</sup> Tab "CBE Codes"



Governor Charlie Crist

Secretary Linda H. South

## CERTIFICATION OF CONTRACT

TITLE: Office and Educational Consumables

CONTRACT NO.: 618-000-11-1

ITN NO.: 618-001-10-1

EFFECTIVE: October 18, 2010 through October 17, 2013

SUPERSEDES: 618-001-07-ACS

**CONTRACTORS:**

Gulf Coast Office Products  
Office Depot  
Staples Contract & Commercial, Inc.

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**ANY QUESTIONS, SUGGESTIONS, OR CONTRACT SUPPLIER ISSUES WHICH MAY ARISE SHALL BE BROUGHT TO THE ATTENTION OF MARK HERNANDEZ AT (850) 414-6741, E-MAIL: [mark.hernandez@dms.myflorida.com](mailto:mark.hernandez@dms.myflorida.com)**

- A. **AUTHORITY** - Upon affirmative action taken by the State of Florida Department of Management Services, a contract has been executed between the State of Florida and the designated contractors.
- B. **EFFECT** - This contract was entered into to provide economies in the purchase of Office and Educational Consumables by all State of Florida agencies and institutions. Therefore, in compliance with Section 287.042, Florida Statutes, all purchases of these commodities shall be made under the terms, prices, and conditions of this contract and with the suppliers specified.
- C. **ORDERING INSTRUCTIONS** - All purchase orders shall be issued in accordance with the attached ordering instructions. Purchaser shall order at the prices indicated, exclusive of all Federal, State and local taxes. All contract purchase orders shall show the State Purchasing contract number, product number, quantity, description of item, with unit prices extended and purchase order totaled. (This requirement may be waived when purchase is made by a blanket purchase order.)
- D. **CONTRACTOR PERFORMANCE** - Agencies shall report any vendor failure to perform according to the requirements of this contract on Complaint to Vendor, form PUR 7017. Should the vendor fail to correct the problem within a prescribed period of time, then form PUR 7029, Request for Assistance, is to be filed with this office.

- E. SPECIAL AND GENERAL CONDITIONS - Special and general conditions are enclosed for your information. Any restrictions accepted from the supplier are noted on the ordering instructions.

---

Anthony Garcia  
Purchasing Director

(date)

**CONTRACT BETWEEN  
FLORIDA DEPARTMENT OF MANAGEMENT SERVICES  
AND  
Awarded Vendor**

This Contract is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and the Awarded Vendor (Contractor).

Whereas, the Contractor replied to the Division's Invitation to Negotiate (ITN), No.: 618-001-10-1 – Office and Educational Consumables; and

Whereas, the Division negotiated and accepted the best terms and conditions for Office and Educational Consumables pursuant to Section 287.057(1) (c).

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract.

**1.0 NAME OF PROJECT**

Office and Educational Consumables.

**2.0 SUMMARY OF THE CONTRACTUAL SERVICES (SCOPE OF WORK)**

The scope of products for this Office and Educational Consumables contract are described in section 1.2 of the ITN document and are summarized in the table below. The Product Categories listed below refers to categories covered under this agreement.

<b>Product Categories in Scope</b>	
<ul style="list-style-type: none"> <li>▪ Consumables</li> <li>▪ Breakroom &amp; Cleaning Supplies</li> <li>▪ Folders, Binders &amp; Accessories</li> <li>▪ Paper – Other</li> <li>▪ Paper - 20# White (Recycled and Virgin)</li> <li>▪ Toner HP</li> <li>▪ Toner Non HP</li> <li>▪ Toner Remanufactured</li> <li>▪ IT Peripherals</li> <li>▪ Equipment</li> </ul>	

**3.0 DELIVERABLES**

The ITN identifies all the performance requirements and expectations to be satisfied by the contractor throughout the term of the contract. However, included below are the primary deliverables related to the scope of work above. Also included below are the required minimum level of service and criteria for evaluating successful completion of each deliverable. The Contractor will provide the following Deliverables:

**3.1 Monthly Service Level Agreement Metrics and Reports:**



- A. Delivery Timing** – The Contractor shall maintain an on-time delivery rate of 95% or greater. On-time delivery will be defined as delivery of order within two (2) business days of placement of order. This SLA supersedes Section 4.11 Transportation and Delivery of the General Conditions. The contractor shall submit to the Department this monthly service level agreement report in Microsoft Excel that details the on-time delivery rate. Specifically, the report shall include the number of orders delivered complete within the 2 business day requirement divided by total number of orders delivered.
- B. Order Accuracy** - The Contractor shall maintain an order accuracy rate of 98% or greater. Order accuracy rate is defined as the number of items delivered as ordered divided by the total number of items ordered. The contractor shall submit to the Department this monthly service level agreement report in Microsoft Excel that details the order accuracy rate. Specifically, the report shall include the number of orders with order accuracy rate of more than 98% divided by total number of orders.
- C. Order Completeness / Fill** - The Contractor shall maintain an order fill rate of 95% or greater. Order fill rate is defined as a number of items on an order filled completely as ordered divided by to the total number of lines on an order. The contractor shall submit to the Department this monthly service level agreement report in Microsoft Excel that details the order fill rate. Specifically, the report shall include Number of orders with order fill rate of more than 95% divided by total number of orders.
- D. Price Accuracy** - The Contractor shall maintain a price accuracy rate of 99.5% or greater. Price accuracy is defined as the number of audited items each month where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category). The Contractor shall obtain a third party firm at no additional cost to the State to conduct external price audits on this contract. The Contractor shall contract with a third party firm (to be approved by the Department) to conduct a monthly random sampling (a minimum of 570 items per month) of contract items to confirm the accuracy of list price, discount % and net price. Specifically, the third party firm will confirm the prices displayed on the Contractor's website are equal to or less than the contract terms. The third party firm shall provide a monthly report to the Department indicating the Price Accuracy Rate (Price Accuracy Rate = the number of audited items each month where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category) divided by the number of audited items). Also, at a minimum, the monthly report shall identify items not in compliance with the contract terms, provide the date of the audit, and screenshots of the Contractor's on-line catalog of all items in the random sample that were not in compliance with the contract terms.
- E. Backorder Fill** – The contractor will ship backorders within five (5) calendar days of original order, unless special circumstances apply. The contractor will submit to the Department at the customer or the Departments request a report in Microsoft Excel that details the item name and product ID, reason for shortage, and plan of action when delivery may be expected or suggested replacement).

### 3.2 Quarterly Sales Report Data:

The Contractor shall report sales data to the Contract Manager on a quarterly basis using the Contract Quarterly Reporting Form in Attachment G – Quarterly Reporting Form. The following summary data must be reported to the Contract Manager on a quarterly basis:

- Total purchases on the contract for the quarter
- Total purchases on the contract for the quarter by Eligible User
- Total purchases for the quarter made using the State's Purchasing Card
- Total Certified Vendor (including Minority, Women, and Service-Disabled Veteran) purchases for the quarter by Eligible User.

The following detailed data must be reported to the Contract Manager on a quarterly basis in Excel spreadsheet format:

- Eligible User (Customer) Entity Name
- Product Category
- Item Description
- Manufacturer Name
- Manufacturer Part Number
- UPC
- Unit of Measure
- Quantity Shipped
- Date Shipped
- List Price
- Invoice Price
- Core Item Flag (indicates if item is on Core Items list)
- P-Card Flag (indicates if transaction was paid for using a P-Card).
- Flag Purchases made within the stores (if applicable)

### **3.3 Annual Service Level Agreement Metrics and Reports:**

- A. Price Accuracy** - The Contractor shall maintain a price accuracy rate of 99.5% or greater. Price accuracy is defined as the number of audited items each month where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category). The Contractor shall Contract with a third party firm (to be approved by the Department) to conduct an annual (on each anniversary of the contract effective date) sampling of Customer invoices (a minimum of 600 customer invoices for the 12 month period) to confirm accuracy of list prices and discount %, and that net prices of invoiced items are equal to or less than the contract terms. Specifically, the third party firm will confirm the price charged to the Customer is equal to or less than the contract terms during that time period. The third party firm shall provide an annual report to the Department indicating the Price Accuracy Rate (Price Accuracy Rate = the number of audited items each year where the net price (calculated by multiplying the list price by 1 minus the discount % for that product category) is equal to or less than the contract price (calculated by multiplying the list price, outlined in Section 3.2, by 1 minus the discount % for that product category) divided by the number of audited items). Also, at a minimum, the annual report will

include copies of the invoices in the random sample that were not in compliance with the contract terms.

#### **4.0 SUMMARY OF PEANALTY FOR FAILURE OF CONTRACTOR TO MEET DELIVERALBES**

The Contractor is required to meet the performance standards as described in Section 3.0 above. Contractor is required to meet performance standards for Delivery Timing, Order Accuracy, Order Completeness/Fill and Price Accuracy on standard contract orders only, special/custom orders can be excluded from the calculations of these performance standards. Failure to meet the performance standards specified will result in the specified damages to the State as shown in the chart below. On the 15th of the month following the month being reported, the Contractor shall submit a report to the Contract Administrator containing the information required in Section 3.0 above. Performance Assurances, if applicable, will be paid via check or money order made out to the Department of Management Services in US Dollars within 30 days after report submission. These damages are assessed for failures over each 12 month period beginning with the first full month of contract performance and every 12 months thereafter.

<b>Item</b>	<b>First Failure</b>	<b>Second Failure</b>	<b>Third Failure</b>	<b>Fourth Failure</b>	<b>Fifth Failure*</b>	<b>Each Additional Failure</b>
Submit Report	\$0	\$500	\$500	\$1,000	\$2,000	\$3,000
Delivery Timing – less than 95% on time	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000
Order Accuracy – less than 98% of items delivered are accurate	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000
Order Completeness/ Fill – less than 95%	\$0	\$0	\$1,000	\$1,000	\$2,000	\$3,000
Price Accuracy – less than 99.5%	\$0	\$0	\$2,000	\$3,000	\$4,000	\$5,000

\*Note: If respondent fails to meet the performance standards 5 or more times in a 12 month contract period, the State shall have grounds to initiate contract breach and termination proceedings.

#### **5.0 EFFECTIVE DATE**

This Contract shall begin on October 18, 2010, or on the last date in which it is signed by all parties, whichever is later.

#### **6.0 EXPIRATION DATE**

This Contract shall expire three years from the effective date of the Contract, unless cancelled earlier in accordance with its terms.

#### **7.0 RENEWAL**

Upon mutual written agreement, the Department and the Contractor may renew the Contract for up to three (3) years as allowed by Section 287.057 (13)(a), Florida Statutes and pursuant to the provision of PUR 1000 Section 26.

## **8.0 INTELLECTUAL PROPERTY**

The parties do not anticipate that any intellectual property will be developed as a result of this contract. Any intellectual property developed as a result of this contract will belong to and be the sole property of the state. This provision will survive the termination or expiration of the contract.

## **9.0 PREFERRED PRICE**

The Contractor agrees to submit to the Department at least annually an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision in Section 5.14 Best Pricing Comparison of the ITN.

## **10.0 CONTRACT DOCUMENTS**

This Contract, together with the following attached documents, set forth the entire understanding of the parties with respect to the subject matter. In case of conflict, the terms of this Contract shall control. If a conflict exists among any of the attached documents, the documents shall have priority in the order listed:

- A. ATTACHMENT I:**  
Office and Educational Consumables ITN No.: 618-001-10-1, as amended.
- B. ATTACHMENT II:**  
Contractor's Response to the ITN.
- C. ATTACHMENT III:**  
Contractor's Best and Final Offer Pricing.

## **11.0 CONTRACT MANAGEMENT**

- A. Contract Manager**  
The Department employee who is primarily responsible for overseeing the Contractor's performance of its duties and obligations pursuant to the terms of this Contract. The Contract Manager shall be as follows:

Mark Hernandez  
Division of State Purchasing  
Department of Management Services  
4050 Esplanade Way  
Tallahassee, FL 32399-0950  
Telephone: (850) 414-6741  
Fax: (850) 414-6122  
E-mail: [mark.hernandez@dms.myflorida.com](mailto:mark.hernandez@dms.myflorida.com)

The Department may appoint a different Contract Manager, which shall not constitute an amendment to the Contract, by sending written notice to Contractor. Any communication to the Department relating to the Contract shall be addressed to the Contract Manager.

- B. Contractor's Representative**

**State of Florida**  
**Department of Management Services**

**Approved as to form and legality**  
**by the Department General Counsel’s Office**

\_\_\_\_\_  
**By: Linda H. South**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

**Contractor:**

\_\_\_\_\_  
**Signature**

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

\_\_\_\_\_  
**Date**

**VENDOR AFFIDAVIT**

**Regarding the Contract Between  
Awarded Vendor (the "Contractor")  
and  
The Florida Department of Management Services  
Contract No.: 618-000-11-1 (the "Contract")**

Pursuant to section 9.0 of the Contract, the undersigned Contractor hereby attests that the Contractor is in compliance with the preferred-pricing clause contained in the Contract.

PRINT CONTRACTOR NAME: \_\_\_\_\_

By: \_\_\_\_\_  
Signature of Authorized Representative

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

Print Representative's Name/Title: \_\_\_\_\_

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

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, by  
\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

(Print, Type, or Stamp Commissioned Name of Notary Public)

[Check One] \_\_\_\_ Personally Known OR \_\_\_\_ Produced the following I.D. \_\_\_\_\_

Vendor Name _____	FEIN: _____
Vendor's Authorized Representative Name and Title _____	
Address _____	
City, State, Zip _____	
Phone Number _____	
Email Address _____	

**AMENDMENT 1  
TO  
OFFICE AND EDUCATIONAL CONSUMABLES CONTRACT  
NO.: 618-000-11-1**

This Amendment 1 ("Amendment") to OFFICE AND EDUCATIONAL CONSUMABLES CONTRACT NO.: 618-000-11-1 dated October 18, 2010, (the "Contract") is made and entered into as of December\_\_, 2010, ("Amendment Effective Date") between Office Depot, Inc., ("Contractor") and the State of Florida, Department of Management Services ("Department"), Division of State Purchasing, an agency of the State of Florida.

The parties hereby agreed to amend that certain Contract between the Department and Office Depot, including any schedules and exhibits thereto, as amended. Capitalized terms not otherwise defined in this Amendment will have the same meaning as set forth in the Contract. Any provision not specifically modified by this Amendment shall remain in full force and effect. Should there be a conflict between the terms and conditions of this Amendment and the terms and conditions of the Contract, the terms and conditions of the Amendment shall control.

The parties hereby amend the Contract as follows:

1. In addition to the Core, Non-Core, and Generic Core and Generic Non-Core commodities available for purchase from the Contract, ("Contract Items"), the parties agree that Contractor may offer items that are not available for purchase from the Contract ("Non-Contract Items") on Contractor's Business Solutions Department website located at <https://business.officedepot.com> .
2. Contract Items shall be clearly designated as "Contract Items" in the online catalog. Non-Contract Items shall have no designation. This distinction shall be plainly identified on the Contractor's online bulletin board.
3. Non-Contract items may be purchased off the Contract at market competitive prices.
4. Individual purchasing entities may elect to exclude Non-Contract Items on the online catalog for their respective purchases.

**WHEREFORE**, the parties have caused their duly authorized representatives to execute this Amendment as of the date of last signature below.

**OFFICE DEPOT, INC.**

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT  
SERVICES**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**AMENDMENT 2  
TO  
OFFICE AND EDUCATIONAL CONSUMABLES CONTRACT  
NO.: 618-000-11-1**

This Amendment 2 ("Amendment") is effective as of April 11, 2011, or on the last date in which it is signed by all parties, whichever is later, to the OFFICE AND EDUCATIONAL CONSUMABLES CONTRACT NO.: 618-000-11-1 Contract ("Contract") effective as of October 18, 2010 between the State of Florida, Department of Management Services ("Department") and \_\_\_\_\_ ("Contractor"). Department and Contractor are collectively referred to herein as the "Parties". All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

*WHEREAS*, the Parties wish to amend certain terms and conditions of the Contract; and

*WHEREAS*, the Parties consent to and approve the amendment of the Contract as set forth herein.

*NOW, THEREFORE*, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

- 1.0 Non-Contract Products.** The Parties agree that Contractor may offer items that are not available for purchase from the Contract ("Non-Contract Items") on Contractor's ordering platform located at <http://www.costore.com/gcop>.
- 2.0 Contract Items.** Contract Items shall be clearly designated as such in the online catalog on Contractor's ordering platform (referenced in Section 1.0 above).
- 3.0 Required Users.** Mandatory State of Florida agencies are permitted to purchase office consumable items from the online catalog displaying the Contract items only; therefore only Contract Items shall be visible on the online catalog for mandatory State of Florida agencies. If it is necessary for a mandatory State of Florida agency to purchase a Non-Contract Item, the agency's internal purchasing policies and procedures shall be utilized. Non-Contract Items are not part of the Contract, and they are therefore not subject to the audit provisions of the Contract, however, other laws or agency procedures may impose audit requirements on such purchases.
- 4.0 Exceptions, Rights of Other Purchasing Entities.**
  - A. Any purchasing entity may elect to exclude Non-Contract Items from Contractor's ordering platform (referenced in Section 1.0 above) for its purchases. Individual purchasing entities that choose not to exclude Non-Contract Items will have the ability to order both Contract and Non-Contract Items on a single account, pursuant to the entity's own procedures and applicable laws.
  - B. The Parties acknowledge and agree that any entity electing to purchase Non-Contract Items pursuant to the Contract will be purchasing products that have not been competitively procured nor established by the Department as part of the original Contract. Therefore, any purchase of a Non-Contract Item will be made pursuant to the entity's own procedures and applicable laws. Non-Contract Items are not part of the Contract and they are therefore not subject to the audit provisions of the Contract, however, other audit requirements may apply. Prices for Non-Contract Items, as determined by contractor, shall be clearly displayed on Contractor's ordering platform (referenced in Section 1.0 above) at the time of purchase.

- 5.0 Employment Verification.** Contractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program. Contractor further agrees to provide to the Agency, within thirty (30) days of the effective date of this Amendment, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen", which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage). Contractor further agrees that it will require each subcontractor that performs work under this Contract to enroll and participate in the E-Verify Program within ninety (90) days of the effective date of this Amendment or within ninety (90) days of the effective date of the contract between the Contractor and the subcontractor, whichever is later. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Agency upon request. Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Agency or other authorized state entity consistent with the terms of the Memorandum of Understanding.
- 6.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control. All other terms of the Contract remain in full force.
- 7.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.
- 8.0 Effect.** This Amendment shall supersede and entirely replace Amendment 1 of this Contract. Unless otherwise modified by this Amendment 2, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida,  
Department of Management Services:

\_\_\_\_\_ (Contractor):

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: John P. Miles

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

Title: Secretary

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

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

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

*Approved as to form and legality*

By: \_\_\_\_\_  
*Office of the General Counsel*

\_\_\_\_\_  
*Date*

**AMENDMENT NO. 3 – FIRST RENEWAL**

Contract No.: 618-000-11-1

Office and Educational Consumables

**This Amendment No. 3** (Amendment), is effective as of October 17, 2013, to the Office and Educational Consumables contract No.: 618-000-11-1 Contract (Contract) between the State of Florida, Department of Management Services (Department) and \_\_\_\_\_ (Contractor). Department and Contractor are collectively referred to herein as the Parties. All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Contract was originally entered on October 18, 2010 with the Contractor and is scheduled to expire on October 17, 2013; and

**WHEREAS** upon mutual agreement, the Department and the Contractor agree to amend the Contract, in accordance with the its terms; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**1.0 Contract Amendment.** Pursuant to section 4.26 of the Contract and section 287.057(13) Florida Statutes, Contract No. 618-000-11-1 is renewed for a period of one year effective October 17, 2013 and will expire October 17, 2014.

**2.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

**3.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**4.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**5.0 Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

**6.0 Entire Agreement.** Except as expressly modified by this Amendment, the Contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the Contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

State of Florida, Department of Management  
Services:

\_\_\_\_\_(Contractor):

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Kelley J. Scott

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

Title: Director of State Purchasing and  
Chief Procurement Officer

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

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

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

**AMENDMENT NO.: 4**

**FINAL RENEWAL**

Office and Educational Consumables

Contract No.: 618-000-11-1

**This Amendment No. 4** ("Amendment"), is effective upon execution to Office and Educational Consumables No. 618-000-11-1 ("Contract") between the State of Florida, Department of Management Services ("Department") and **Contractor** ("Contractor"). The Department and Contractor are collectively referred to herein as the ("Parties"). All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Department entered into a Contract with **Contractor** on October 18, 2010, which was renewed for one year effective October 17, 2013 and is scheduled to expire on October 17, 2014; and

**WHEREAS** the Parties agree to renew the Contract, in accordance with its terms; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**1.0 Contract Renewal.** Pursuant to section 4.26, the Contract is renewed for a period of two years effective October 17, 2014 and will expire October 17, 2016.

**2.0 Contract Amendment.** Pursuant to section 4.42, Paragraphs 5.14 and 5.15 are added to this Contract as follows:

**" 5.14 Scrutinized Company List**

Pursuant to subsection 287.135(5), F.S., by submitting a response to a procurement to which this clause is attached or by signing a contract or renewal of a contract where the value exceeds \$1 million to which this clause is attached, the Respondent or 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, F.S.

Pursuant to subsection 287.135(3)(b), F.S., Department may immediately terminate any contract for cause if the Contractor is found to have submitted a false certification under subsection 287.135(5), F.S., 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.

**5.15 Contractor - Public Records**

If, under this contract, the Contractor is providing services and is acting on behalf of the Department as provided under section 119.011(2), Florida Statutes, the Contractor, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the Department 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.

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

(d) Meet all requirements for retaining public records and transfer, at no cost, to the Department 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 Department in a format that is compatible with the information technology systems of the Department.

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 s. 24(a) of Art. I of the State Constitution and s. 119.07(1)."

- 3.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.
- 4.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.
- 5.0 Scrutinized Companies.** 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".
- 6.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective Party.
- 7.0 Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties hereto.
- 8.0 Entire Agreement.** Except as expressly modified by this Amendment, the Contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the Parties. This Amendment and the Contract (including any written amendments thereto), collectively, are the complete agreement of the Parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

**State of Florida, Department of Management  
Services:**

**By:** \_\_\_\_\_

**Name:** Kelley J. Scott

**Title:** Director of State Purchasing and  
Chief Procurement Officer

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

**Contractor:**

**By:** \_\_\_\_\_

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

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

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

**This Amendment No. 5** ("Amendment"), effective as of October 18, 2016, to the State Term Contract No. 618-000-11-1 ("Contract"), between the **State of Florida, Department of Management Services** ("Department") and **[Contractor name]** ("Contractor") are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Department awarded the above referenced Contract for the provision of Office and Educational Consumables, pursuant to Contract No. 618-000-11-1; and

**WHEREAS** the Contract became effective on October 18, 2010 to continue through October 17, 2013 pursuant to sections 5.0 and 6.0 of the Contract; and

**WHEREAS** the Contract was subsequently renewed pursuant to section 7.0 of the Contract until October 17, 2016; and

**WHEREAS** the Parties agree that the Contract may be amended by mutual agreement as provided in section 4.42 "Modification of Terms" of the incorporated General Contract Conditions of the Contract; and

**WHEREAS** the Parties agree to extend the Contract as provided in section 287.057(12), Florida Statutes for a period of six (6) months, effective October 18, 2016. This extension shall be terminated on April 17, 2017 or upon the execution of a new contract for Office and Educational Consumables, whichever occurs first.

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**I. Contract Amendment.**

- a. As a result of a scrivener's error in Amendment #4 to Contract No. 618-000-11-1, the Amendment #4 to the Contract is being amended to renumber sections 5.14 and 5.15 to sections 12.0 and 13.0.
- b. The Contract is further amended to add the following section 14.0 of the Contract:

**14.0 COOPERATION WITH THE INSPECTOR GENERAL**

Pursuant to section 255.055(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.

**II. Contract Extension.** Pursuant to section 287.057(12), Florida Statutes, the State Term Contract No. 618-000-11-1 is extended for a period of six (6) months at the same terms and conditions, with a new contract expiration date of April 17, 2017 or upon the execution of a new contract for Office and Educational Consumables, whichever occurs first.

**III. Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**IV. Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**V. Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

**State of Florida,  
Department of Management Services**

**Contractor:  
[Contractor Name]**

**By:** \_\_\_\_\_  
**Name:** Ben Wolf  
**Title:** Chief of Staff  
**Date:**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**  
**Date:**