

Florida Department of Education

# Contract Management & Accountability Workshop Training Manual & Handbook

**Presented by:**  
*The Bureau of Contracts, Grants and Procurement  
Management Services  
Rev. 9/11*

## PREFACE

The purpose of the Contract Management and Accountability Workshop is to provide participants with a comprehensive foundation of the contracting process. It is designed for the Department of Education staff members who will be contract managers or are directly involved in the contract management process. The content of this workshop covers the contracting process from methods of procurement through the development of the formal solicitation, such as an Invitation to Bid (ITB), Invitation to Negotiate (ITN), and Request for Proposal (RFP); the contract; and management of the contract.



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## TRAINING OBJECTIVES

- To provide participants with an overview and understanding of the contract management process
- To provide an understanding of participants' roles and responsibilities as a contract manager
- To familiarize participants with the laws, rules, and regulations, governing contractual procurement and management
- To familiarize participants with departmental policies and procedures related to contract development and management
- To make participants aware of available contract management tools and information resources
- To provide an understanding of the department's efforts towards achieving Diversity in Contracting
- To familiarize participants with expectations of contract monitoring

## DEFINITIONS

**Alternate Contract Source** – A process by which an agency may use another agency’s competitively procured contract with DMS approval. See the Procurement Office for details.

**Amendment** – A document by which changes are made to essential parts of an executed contract, i.e., cost, service, method of payment, decrease the time period of the contract, etc.

**Best Value** – the highest overall value to the state based on objective factors that include, but are not limited to, price, quality, design, and workmanship.

**Blanket Purchase Order** - an arrangement where a purchaser contracts with a vendor to provide the department’s requirements for an item(s) or a group of items or a service(s), ordered on an as needed basis. It prescribes the contract term and the maximum amount of money that may be spent. No purchase may be divided into two or more purchases for the purpose of evading the competitive bidding requirement, and each purchase made under a blanket order must be of the kind that could be made without competitive bidding if there were no blanket purchase order (cannot exceed Category Two).

**Commodity** – any of the various supplies, materials, goods, merchandise, food, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure with floor space of less than 5,000 square feet, purchased, leased, or otherwise contracted for by the state and its agencies. Printing of publications shall be considered a commodity when let upon contract pursuant to s. 283.33, Florida Statutes, whether purchased for resale or not.

**Competitive Sealed Bids, Competitive Sealed Proposals, or Competitive Sealed Replies-** mean the process of receiving two or more sealed bids, proposals, or replies transmitted by responsive vendors and includes bids, proposals, or replies transmitted by electronic means in lieu of or in addition to written bids, proposals, or replies for commodities/services submitted by a specified time and location and opened publicly.

**Competitive Solicitation or Solicitation** – formal or informal quotes, invitation to bid, request for proposal, or invitation to negotiate.

**Contract** - A legally enforceable agreement reduced to a formal written agreement or purchase order, executed between the Agency and an individual or organization (vendor) for the procurement of contractual services and commodities.

**Contract Manager** - For each contractual services contract, the department designates an employee to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor.

**Contract Administrator** - Each agency shall designate at least one employee whom shall serve as a contract administrator responsible for maintaining a contract file and financial information on all

contractual services contracts and who shall serve as a liaison with the contract managers and the department. (Chapter 287 Florida Statutes)

**Contract Signer** – The Commissioner or his/her designee is the individual authorized to sign all contracts or contract amendments.

**Contractor** – a person who contracts to sell commodities or contractual services to an agency.

**Contractual Service** – the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged there under; and professional, technical, and social services. "Contractual service" does not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255, Florida Statutes, and rules adopted there under.

**Delivery Terms** - conditions in a contract relating to freight charges, place of delivery, time of delivery and method of transportation.

**Disallowed Purchases** - Comptrollers Memorandum No. 21 (1995-96) states that it is the policy of the Office of Comptroller that an expenditure of state funds must be authorized by law and the expenditure must meet the intent and spirit of the law authorizing payment.

In cases where the item for payment is generally used solely for the personal convenience of employees and which generally are not necessary in order for a State agency to carry out its statutory duties will be determined to be a disallowed purchase without sufficient justification. Examples are as follows:

- Convenience Appliances: Portable heaters, fans, refrigerators, stoves, coffee makers, microwaves
- Picture frames
- Congratulatory or condolence telegrams
- Plants, flowers, pictures, statues and other decorative items
- Entertainment
- Refreshments
- More expensive office supplies, furniture, etc. than is necessary to meet a legitimate need.

**Electronic Posting or Electronically Post** – the posting of solicitations, agency decisions or intended decisions or other matters relating to procurement on a centralized Internet website designed by the Department of Management Services for this purpose. (Chapter 287 Florida Statutes)

**Emergency Purchase** - the agency head determines in writing that an immediate danger to the public health, welfare, safety or other substantial loss to the state exists and requires emergency action. After the agency head makes such a written determination, the agency may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies. However, such emergency procurement shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the agency determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state.

The agency shall furnish copies of all written determinations certified under oath and any other documents relating to the emergency action to the department. A copy of the statement shall be furnished to the Comptroller with the voucher authorizing payment.

**Exceptional Purchase** - any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation, including, but not limited to, purchases from a single source (see single source posting); purchases upon receipt of less than two responsive bids, proposals, or replies; purchases made by an agency from a state term contract procured, by an agency, after receiving approval from the department, from a contract procured, pursuant to s. 287.057 (1), (2), (3), Florida Statutes, by another agency; and purchases made without advertisement in the manner required by s. 287.042 (3) (b), Florida Statutes.

**Exempt Service** - a service that is not subject to the competitive sealed bid requirements of subsections 287.057(3) or (2), Florida Statutes., but is subject to all other provisions of Chapter 287, Florida Statutes, and the laws relating to the State Chief Financial Officer's authority to audit expenditures for contractual services.

The following contractual services and commodities are not subject to the competitive-solicitation requirements of this section:

1. Artistic services
2. Academic program reviews
3. Lectures by individuals
4. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services
5. 5.a. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration
  - b. Health services, including, but not limited to, substance abuse and mental health services, involving examination, diagnosis, treatment, prevention, or medical consultation, when such services are offered to eligible individuals participating in a specific program that qualified multiple providers and uses a standard payment methodology. Reimbursement of administration costs for providers of services purchased in this manner shall also be exempt. For purposes of this sub-paragraph, "providers" means health professionals, health facilities, or organizations that deliver or arrange for the delivery of health services.

6. Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the United States Internal Revenue Code or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the vendor, past performance, willingness to meet time requirements, and price.
7. Medicaid services delivered to an eligible Medicaid recipient unless the agency is directed otherwise in law.
8. Family placement services
9. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the vendor, past performance, willingness to meet time requirements, and price.
10. Training and education services provided to injured employees pursuant to s. 440.491(6), Florida Statutes.
11. Contracts entered into pursuant to s. 337.11, Florida Statutes.
12. Services or commodities provided by governmental agencies.
13. Continuing education events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program are exempt from requirements for competitive solicitation.
14. Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are exempt from solicitation requirements and must be procured pursuant to an established fee schedule or by any other method that ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs.

**Extension** – an increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with or without a proportional increase in the total dollar amount, with any increase to be based on the method and rate previously established in the contract. An extension is considered a contract amendment, and as such, must be routed through the Contract Administrator and reviewed and approved by the program area, budget, and legal.

An extension of a contract for contractual services shall be in writing for a period not to exceed 6 months and shall be subject to the same terms and conditions set forth in the initial contract.

**Formal Solicitation:** The process for purchases in excess of \$35,000 must be made by formal competitive sealed bids (i.e., Invitation to Bid, Request for Proposal, Invitation to Negotiate).

**Informal Solicitation** – the process of obtaining oral or written quotes from vendors without formal advertising and receipt of sealed bids.

**Invitation To Bid (ITB)** - means a written solicitation for competitive sealed bids. The invitation to bid is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is electronically posted.

**Invitation to Negotiate (ITN)** - a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the agency determines that negotiations may be necessary for the state to receive the best value. A written solicitation includes a solicitation that is electronically posted.

**MyFloridaMarketPlace (MFMP)** – The states electronic procurement system. Vendors who wish to do business with the state must register, agreeing to a 1% fee, in MFMP. Requests for products or services are entered and approved in this system prior to issuance of a PurchaseOrder which is electronically transmitted to the contractor.

**Operating Capital Outlay (OCO)** – means equipment, fixtures and other tangible personal property of a non-consumable and non-expendable nature that the value and cost is \$1,000 or over. Hardback-covered bound books over; the value of which is \$250 or more.

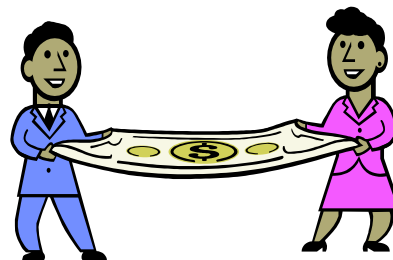
**Purchase Order** - the agency's document to formalize a purchase transaction with a vendor. The Purchase Order is created by MyFloridaMarketPlace (MFMP) resulting from a fully approved MFMP requisition and contains; quantity, description, scope of services, beginning and ending dates of services, price of goods and services, applicable terms of payment, transportation requirements and other factors or suitable references pertinent to the purchase such as bid number or contract number.

**Outsourcing** – the process of contracting with a vendor to provide a service as in whole or in part, while a state agency retains the responsibility and accountability for the service or activity and there is a transfer of management responsibility for the delivery of the resources and the performance of those resources.

**Protest** – is a complaint about a governmental administrative action or decision brought by a bidder or vendor with the intention of achieving a remedy.

**Purchasing Category Threshold Amount** - the purchasing category threshold amounts established in Section 287.017, Florida Statutes, which distinguish dollar amounts at which various purchasing rules are implemented.

- (a) CATEGORY ONE: \$20,000
- (b) CATEGORY TWO: \$35,000
- (c) CATEGORY THREE: \$65,000
- (d) CATEGORY FOUR: \$195,000
- (e) CATEGORY FIVE: \$325,000



**Renewal** – Contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal. A renewal is considered a contract amendment, and as such, must be routed through the Contract Administrator and reviewed and approved by the program area, budget, and legal.

**Request For Information (RFI)** – a written request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the agency to form a binding contract.

**Request For Proposal (RFP)** - a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the agency to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the agency is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is electronically posted.

**Request For Quote (RFQ)** – an oral or written request for written pricing or services information from a state term contract vendor for commodities or contractual services available on a state term contract from that vendor.

**Requisition** - an internal document by which an office requests the purchasing section to procure goods and services. Initiated and approved in MyFloridaMarketPlace the requisition contains all necessary justifications and documentation.

**Responsible Vendor** – a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good-faith performance.

**Responsive Bid, or Responsive Proposal, or Responsive Reply** – a bid, proposal, or reply submitted by a responsive and responsible vendor, which conforms in all material respects to the solicitation.

**Responsive Vendor** – a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

**Single Source Posting** - if an agency believes commodities or contractual services are available only from a single source, the agency shall electronically post a description of the commodities or contractual services sought for a period of at least seven business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. If it is determined in writing by the agency, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the agency shall:

1. Provide notice of its intended decision to enter a single-source purchase contract in the manner specified in s. 120.57(3), Florida Statutes, if the amount of the contract does not exceed the threshold amount provided in s. 287.017, Florida Statutes, for CATEGORY FOUR. (\$195,000.00)
2. Request approval from the Department of Management Services (DMS) for the single-source purchase, if the amount of the contract exceeds the threshold amount provided in s. 287.017,

Florida Statutes, for CATEGORY FOUR. The agency shall initiate its request for approval in a form prescribed by DMS, which request may be electronically transmitted. (\$195,000.00)

If DMS approves the agency's request, the agency shall provide notice of its intended decision to enter a single-source contract in the manner specified in s. 120.57(3), Florida Statutes. The process for approval of a single source requires significant documentation, posting of the justification on the internet, review of any claims from vendors that they can provide the commodity/service, review by DMS, then posting on the internet of the intent to award.

**Single Source Purchase** – purchases of commodities or contracted services available only from a single source. These services are exempt from the competitive solicitation process when properly documented.

**Specification** – a description of the physical or functional characteristics of the item or services needed.

**State Term Contract** – a term contract that is competitively procured by the DMS pursuant to s. 287.057, Florida Statutes, and is used by agencies and eligible users pursuant to s. 287.056, Florida Statutes.

**State Purchasing Agreements (SPA)** - State Negotiated Agreements (SPA) are DMS negotiated price schedules offered by multiple vendors for commodities and services that are not available from a State Term Contract. SPAs are available for use by agencies or other eligible users provided that any single purchase must not exceed \$35,000. The pricing offered on SPA agreements are ceiling prices which means the contractor must offer prices on the agreement, or may negotiate lower prices with the end user. Therefore, it is in the best interest of the using agency to get quotes from multiple vendors.

**Term Contract** – an indefinite quantity contract to furnish commodities or contractual services during a defined period.



# **Overview of Contract Management and Accountability Process**

# Overview of Contract Management and Accountability Process

## A. Understanding the Contract Management Process

### WHY CONTRACT FOR SERVICES?

The department contracts for services when it does not have the capabilities to provide a service, i.e. insufficient staffing resources or expertise, or when the service can be delivered more efficiently and at a better price by someone else. Contracting may also be the result of a legislative mandate. The department manages hundreds of millions of dollars in contracts in any given year. Therefore, those who manage the department's contracts must understand their role and responsibilities as a contract manager.

### WHAT IS A CONTRACT?

For the purposes of this curriculum, a contract is a formal written agreement or purchase order executed between the department and an individual or organization for the procurement of goods or services. It is a legal document that establishes a relationship between two parties; usually the department and the provider. You, the contract manager, are the link between the two. As such, you must be aware at all times of the status of the relationship.

When the department decides to contract for the services it needs, a contract manager is designated, and the process begins.

## B. Understanding Your Role and Responsibilities as a Contract Manager

### WHAT IS THE DEFINITION OF A CONTRACT MANAGER?

The Law requires that each Agency designate contract managers:

Chapter 287.057(14) F.S. states, "For each contractual services contract, the agency shall designate an employee to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and shall serve as liaison with the contractor. Each contract manager who is responsible for contracts in excess of the threshold amount for Category II must attend training conducted by the Chief of Financial Officer for accountability in contracts and grant management. The Chief Financial Officer shall establish and disseminate uniform procedures pursuant to s. 17.03(3) to ensure that contractual services have been rendered in accordance with the contract terms before the agency processes the invoice for payment. The process shall include, but not be limited to, procedures for monitoring and documenting contractor performance, reviewing and documenting all deliverables for which payment is required by vendors, and providing written certification by contract managers of the agency's receipt of goods and services. ."

## CONTRACT MANAGER RESPONSIBILITIES

In carrying out these responsibilities, the contract manager interacts directly or indirectly with various personnel in the department, including, but not limited to, the Purchasing Office, General Counsel's Office, Comptroller's Office, Budget Office and the Contract Administrator. The contract manager's responsibilities include:

- Defining precisely what is required to meet a need
  - ☐ determine performance requirements
  - ☐ determine quality/performance measures
- Carrying out the preparations for soliciting, analyzing, and awarding contracts
  - ☐ determine the best provider to meet the requirements
  - ☐ prepare cost analysis and documentation for non-competitive procurements
  - ☐ identify funding source
  - ☐ identify nature of requirements
  - ☐ develop timelines
- Negotiating the contract and amendment(s)
  - ☐ follow the appropriate procurement procedures
  - ☐ reach a formal agreement for the services or product development/delivery with provider
  - ☐ coordinate with the Purchasing Office to determine the appropriate method of procurement, i.e., RFP, ITB, ITN, etc.
- Develop contract document including prices, terms and conditions
  - ☐ develop a clear scope of work
  - ☐ identify specific deliverables
  - ☐ identify criteria to be used to determine successful performance
  - ☐ identify cost payable upon successful completion of deliverables
- Overseeing and enforcing the providers performance of contract terms and conditions
  - ☐ develop monitoring plan
  - ☐ implement monitoring plan
  - ☐ ensure timely delivery of services
  - ☐ verify acceptable receipt of deliverables, including receiving and maintaining proof
  - ☐ document contractor performance
  - ☐ receive and review the reports of the contractor to determine whether the objectives of the contract are being accomplished
  - ☐ provide technical assistance to the contractors and their staff in the resolution of performance and other contract-related issues
  - ☐ when there are subcontractors, evaluate the process used by the prime contractor to monitor the activity of the subcontractors
- Ensure the contract terms and conditions are met before approving for payment
- Reviewing and approving provider's invoices for payment
  - ☐ verifying documentation of satisfactory deliver of service
  - ☐ make sure contract, documentation and invoice match or agree

- Maintaining a comprehensive file on the contract
- Acting as the liaison (single point of contact) between the provider and the department
- Participating in the accountability in contracts management training every 2 years.

In short, the contract manager has primary responsibility for the contract.

## CONTRACT MANAGER KSAs FOR SUCCESS

In order to be successful, a contract manager must have certain knowledge, skills and abilities. Listed below are some KSAs that are desirable qualities for a contract manager to possess or develop.

### Knowledge of:

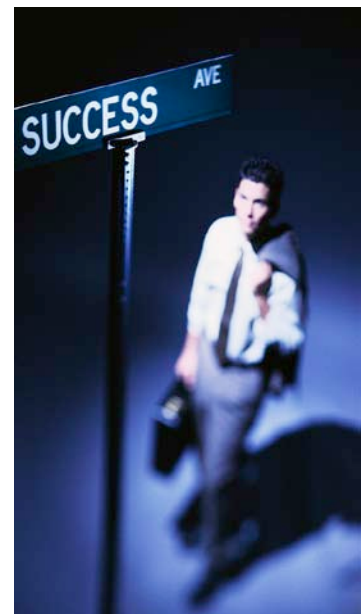
- Program area to decide what services are needed and the procurement method by which they might best be obtained
- State/federal laws, rules and regulations related to procurement
- Department policies and procedures related to procurement
- The terms and conditions of the contract itself
- Department fiscal policies and procedures
- Department funding sources and policies

### Skills:

- Organization and attention to detail
- Written and verbal communication skills
- Interpersonal skills that will assist the Contract Manager in developing effective professional relationships with the following areas:
  - ✓ Program Office
  - ✓ General Counsel
  - ✓ Contract Administration
  - ✓ Budget Office
  - ✓ Vendor

### Abilities:

- Ability to research
- Ability to work independently and be assertive with the vendor
- Ability to establish and maintain effective professional working relationships
- Problem solving ability
- Ability to collect and analyze information
- Ability to communicate effectively, verbally and in writing



## C. What is Contract Management?

The process of administering a contract from the initial stages of determining the services needed, through determining the method of procurement, choosing a service provider or vendor, negotiating the terms of the contract, executing the contract with the vendor and monitoring the vendor's performance under the contract until it ends or is terminated.

### FOUR PHASES OF CONTRACT MANAGEMENT

**Phase I** Procurement includes:

- Make or buy decision
- Ensuring that funding is available for the contract
- Determining the Method of Procurement
- Procurement activities, i.e. issuance of competitive bid, evaluation of vendors and/or proposals, posting of award

**Phase II** Contracting includes:

- Negotiating contract terms with the vendor
- Developing the contract documents
- Routing the contract through the department for approval
- Executing the contract

**Phase III** Contract Management and Monitoring includes:

- Maintaining the contract file
- Reviewing and processing invoices submitted by the vendor
- Tracking the funding balances on the contract
- Developing amendments, renewals and other changes to the contract
- Closing out the contract

**Phase IV** Contract Monitoring

- Planning the monitoring activities
- Evaluating the contractor's performance
- Reviewing and processing invoices submitted by the vendor
- Reviewing records and other documents.
- Address corrective action if necessary

### WHAT IS THE PURPOSE OF CONTRACT MANAGEMENT?

- Ensure that the department, through its contracting process, protects the funds it disburses
- Ensure that the department obtains maximum services for the dollars spent
- Ensure compliance with applicable state and federal laws, rules and regulations governing contract procurement and contract management activities

## D. Understanding the Laws and Legal Restraints Related to Contract Management

The responsibilities of a contract manager are defined and limited by law. As a contract manager you are functioning as a representative of state government.

How do you find out what the law allows? First of all, do not rely only on the advice of others, even those with more experience than you. And don't rely completely on manuals - even this one. Manuals are written to serve as guidelines and will provide you with invaluable information, but they cannot be used as the final authority. A manual is written for internal use; it is not legally binding.

The final sources of your authority and limitations as contract manager are the laws and administrative rules of the state. In addition, federal laws and regulations may be applicable to your program. These laws can and do change, often with each new legislative session. You can't depend on someone else's experience to be up-to-date, or on a manual to have been revised to conform to the most recent changes in the law.

You will need to become familiar with the departmental policies and procedures and with those chapters of the Florida Statutes and Florida Administrative Code, which apply to and define your job as contract manager.

### BASIC LEGISLATIVE INTENT OF PROCUREMENT LAWS

- To promote fair and open competition without favoritism
- To ensure that public funds are spent wisely
- To establish uniform procedures to ensure effective and ethical procurement of contractual services
- To ensure improprieties are curbed and public confidence is maintained

**Chapter 287 Florida Statutes (F.S.)** deals with and defines procurement procedures under which you must operate. Included are definitions regarding contractual services, when competitive bidding is necessary and when it is not, and some specifics regarding the contract document. This chapter also provides procurement procedures, specifies certain contract terms and conditions and specifies legislative intent.

The legislative intent is (287.001 Florida Statutes):

- a) fair and open competition be recognized as a basic tenet of public procurement;
- b) such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically and;

- c) documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which contractual services are procured.

It is essential to the effective and ethical procurement of contractual services that there be a system of uniform procedure to be utilized by state agencies in managing and procuring contractual services, that detailed justification of department decisions in the procurement of contractual services be maintained, and that adherence by the department and the contractor to specific ethical considerations be required.

## **Chapter 287 F.S., Part I - Commodities, Insurance and Contractual Services:**

- 012 Provides definitions of terms used in the chapter
- 017 Provides threshold amounts per purchasing categories
- 056(1) Requires that Agencies purchase from State Term Contracts

### **057 Procurement of Commodities or Contractual Services:**

- (1)(a) Provides for the use of an Invitation to Bid (ITB) and requirements
- (1)(b) Provides for the use of a Request for Proposal (RFP) and requirements
- (1)(c) Provides for the use of an Invitation to Negotiate (ITN) and requirements
- (2) Allows for a conference and Question and answer period in ITB, RFP and ITN
- (3) Describes when ITB, RFP or ITN are not required
  - (3)(a) Provides the process for emergency procurements
  - (3)(b) State term contract
  - (3)(c) Provides the single source process
  - (3)(d) Purchase of insurance
  - (3)(e) Provides requirements for the purchase of prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients
  - (3)(f) Provides a list of contractual services exempted from competitive procurement
- (4) Provides agencies complete a cost analysis for services over Category II purchased without competition
- (9) Provides that an agency shall not divide a procurement to avoid competitive procurement requirements
- (10) Provides exemption from competitive procurement if state or federal law prescribes service provider or rate of payment

- (12) Provides that a contract may be extended for six (6) months
- (13) Provides renewal language for a contract
- (15)(a)(b) Provides that an agency head shall appoint at least three persons to evaluate proposals and replies and conduct negotiations during a competitive sealed reply procurement
- (19) Provides that individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the award process shall attest that they have no conflict of interest in entities evaluated and selected
- (23) Provides that the Department of Management Services (DMS) in consultation with the Agency for Enterprise Information Technology and the Department of Financial Services shall develop an on-line procurement program.

It also provides for a fee for the use of the on-line procurement system.

## **058 Contract Document**

- (1)(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and post audit
- (1)(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. F. S.
- (1)(c) A provision allowing unilateral cancellation by the agency for refusal by the vendor to allow public access to all documents or other material in conjunction with the contract, unless exempted by s. 24 (a) Art. I of the State Constitution and s. 119.07(1). F. S.
- (1)(d) A provision specifying a scope of work that clearly establishes all tasks the contractor is required to perform.
- (1)(e) A provision dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment. Each deliverable must be related to the scope of work and specify the required minimum level of service to be preformed and criteria for evaluating the successful completion of each deliverable.
- (1)(f) A provision specifying the criteria which must be met and the final completion of the contract.
- (1)(g) A provision specifying that the contract may be renewed if applicable

## **Other Relevant Florida Statutes**

Chapter 120.57 F.S., provides procedures applicable to protests of a contract solicitation or award.

Chapter 215.97 F.S., Florida Single Audit Act.

Chapter 215.422 F.S., provides that an Agency has 5 working days to inspect and approve goods and services for payment.

Chapter 216.347 F.S., prohibits the expenditure of Contract funds for the purpose of lobbying the Legislature, the judicial branch or a state agency.

Chapter 403.7065 F.S., provides that an Agency purchase products with recycled content.

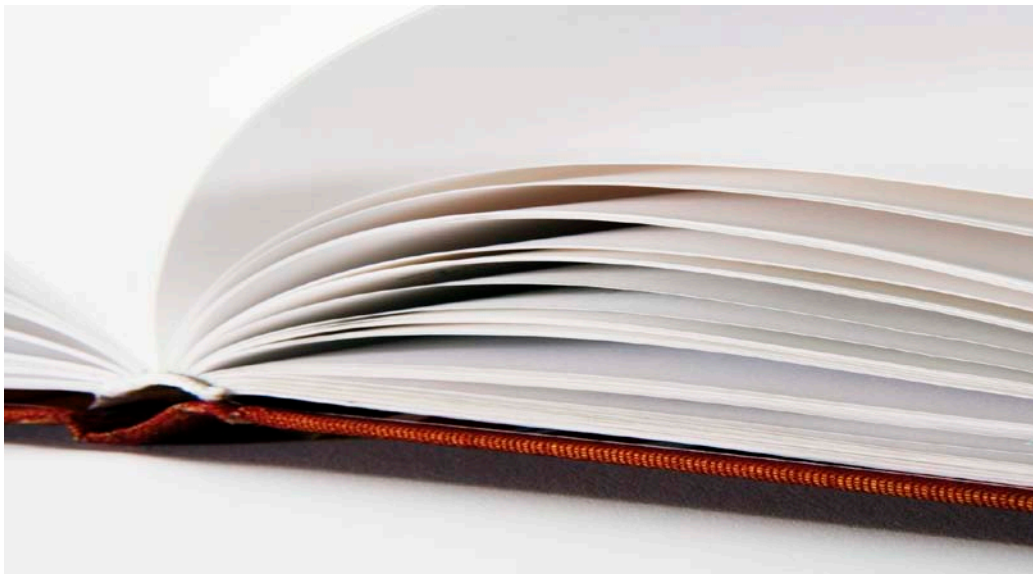
Chapter 413.036 F.S., provides that an Agency shall purchase articles from RESPECT of Florida.

Chapter 946.515 F.S., provides that an Agency shall purchase articles from P.R.I.D.E.

**Chapter 60A-1, Florida Administrative Code (F.A.C.)** sets out how the department is allowed to exercise its authority in procuring services. It also sets forth the procurement process required for all types of contracts. The correct methods of purchase for all contractual services and commodities are presented. Refer to this rule when choosing and carrying out the procurement method.

### **Title 45 Code of Federal Regulations, Parts 74 and 92**

If your program utilizes federal funding when contracting for services, you will need to become familiar with these and other federal rules and regulations governing procurement.



## E. Understanding the Tools and Resources Available to Help You Manage Your Contract

### THE BUREAU OF CONTRACTS, GRANTS AND PROCUREMENT MANAGEMENT SERVICES

The staff in the Contract Administration Unit in the Bureau of Contracts, Grants and Procurement Management Services is available to assist you with contracting, and purchasing needs. You may contact the following with questions:

<b>David Guido, Bureau Chief</b>	245-9878
Janice Brown, Special Projects Director	245-0819
Fran Shewan, Purchasing Analyst	245-9884

#### **Audit Resolution and Monitoring**

Alricky Smith, Director	245-9875
Beth Boyd, Educational Consultant	245-9197
Jodi Sullivan, Education Program Director	245-9209
Marie Abrams, Monitoring Specialist	245-7812
Tiffany Davis, Monitoring Specialist	245-7821

#### **Contracts, and Procurement**

Gwen York,	245-9170
Contracts Administrator & Procurement Director	
Caprecia Mortimer, Purchasing Analyst	245-7807
Christina Davis, Purchasing Specialist	245-9191
ReGina Johnson, Purchasing Analyst	245-9173
Dee Ragsdale, Contract Specialist	245-0096
Jeannette Hume, Contract Specialist	245-9915

## GENERAL COUNSEL'S OFFICE

The Office of the General Counsel at 245-0442 is a resource that should not be overlooked. The legal staff should be contacted if there are any substantive legal questions relating to the method of procurement or contracts.



## OFFICE OF CONTRACTS, GRANTS AND PROCUREMENT MANAGEMENT SERVICES Website:

<http://intranet.fldoe.org/Purchasing/Default.aspx>

On this website you will find links to the Purchasing and Contracting pages. The Contracting Page contains links to:

- Contract Documents: (Contract Document, Attachments to the Contract, Amendment, Extension; and, Renewal documents, plus other forms and documents)
- Contract Training Manual (The most recent version of the training manual)
- Related Links: Quick links to other sites such as the DMS Vendor Bid System (VBS), State Term Contracts Lists, SPA agreements, Florida Statutes, Florida Administrative Code, Florida Department of Administration, Division of Corporations (Sunbiz) and more.

*The table on the following page provides a listing of personnel in the Contracts and Procurement Units in the Office of Contracts, Grants and Procurement Management Services.*



**DEPARTMENT OF EDUCATION**  
**Contracts, Grants and Procurement Management Services**  
**Procurement and Audit Resolution and Monitoring Units**  
**Telephone number: (850) 245-0483**

Employee Name	Position Title	Major Task(s)
<b>David Guido</b>	Bureau Chief	Manages Contracts, Grants, and Procurement.
<b>Gwen York</b>	Contracts and Procurement Director	Supervises Contract, and Procurement staff, develops policy, procedures, training and forms. Conducts training.
<b>Janice Brown</b>	Special Projects Director	Special Projects
<b>Alricky Smith</b>	Director, Audit Resolution and Monitoring	Supervises Audit Resolution and Monitoring staff, develop and implement risk-based assessment procedures, Federal and State detailed reviews.
<b>Dee Ragsdale</b>	Operations & Management Consultant II	Assists in Contract Administration activities including contract reviews.
<b>Jeannette Hume</b>	Operations & Management Consultant II	Assists in Contract Administration activities including contract reviews and PARCC hotel agreements.
<b>Caprecia Mortimer</b>	Purchasing Analyst	Processes RTTT procurements
<b>ReGina Johnson</b>	Purchasing Analyst	Processes more complex ITBs, RFPs, ITNs, Purchase Orders; Develops purchasing policies & procedures.
<b>Christina Davis</b>	Purchasing Specialist	Processes RFQs, ITBs, RFPs, Purchase Orders, .
<b>Fran Shewan</b>	Purchasing Analyst	Processes PARCC procurements
<b>Jodi Sullivan</b>	Education Program Director	Districts: Audit resolution and monitoring of federal fun grantees/recipients.
<b>Beth Boyd</b>	Educational Consultant	Nonprofits, For-profits, Private Colleges and Universities: Federal and State recipient monitoring, Single Audit Report enforcement and review, Florida Single Audit Act responsibilities including CSFA # requests, certification and certification and compliance supplements
<b>Marie Abrams</b>	Monitoring Specialist	Monitoring RTTT program funds
<b>Tiffany Davis</b>	Monitoring Specialist	Monitoring RTTT program funds

# Diversity in Contracting

## A. Diversity In Contracting

The Department's Supplier Diversity initiative strives to ensure the promise of Florida's future is shared by all of its residents, regardless of their race, ethnicity, neighborhood or background.

The mission is to unite Floridians behind a shared vision of opportunity and diversity. The goal is to increase opportunity and diversity in the state's contracting without using policies that discriminate or that pits one racial group against another.



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The Office of Contracts, Grants and Procurement Management Services has been charged with the responsibility of coordinating the Diversity in Contracting for the Department. This includes making all procurement officials aware of this initiative and working with you to increase minority business spending by focusing on recruitment of and outreach to minority businesses.

The Department of Management Services (DMS), Office of Supplier Diversity (OSD) is responsible for measuring the State's success as it relates to minority spending. It also serves as a matchmaker for minority businesses and purchasing/contract opportunities with State and local government. The OSD has a Certification Unit that provides technical expertise to evaluate and certify applicants for minority status and a Compliance Unit that is responsible for working with the agencies toward increasing minority spending.

One of the reports that the Department is required to provide is the "90 Day Spending Plan". This quarterly report collects information from throughout the agency on anticipated purchases for the upcoming quarter. The report is posted on the Department's website and the website of the OSD for interested vendors to review and make contact to the area directly in need of products and services before they are purchased.

The Department requires prime contractors who use subcontractors to utilize certified minority subcontractors as much as possible and to report spending with these subcontractors with each invoice submitted for payment. This spending is reported to the OSD and counted toward the agency's overall minority business spending.

When selecting vendors to request quotes for a purchase, solicited vendors must include at least one certified minority business or a justification as to why it was not provided. Minority Business Vendor type and codes are provided as an attachment.

Training, inclusion of minority businesses when soliciting quotes, continuous monitoring of spending and participating in outreach efforts will prove to be essential in increasing opportunity and diversity in the Department's contracting.

## B. Websites, Links and Resources

**MyFlorida MarketPlace** website:

[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/myfloridamarketplace](http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace)

- On line Purchasing
- For Customer Service call 866/FLA-EPRO (866/352-3776) or email

[BuyerHelp@myflorida.com](mailto:BuyerHelp@myflorida.com)

MyFloridaMarketPlace

Vendors:[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/myfloridamarketplace/mfmp\\_vendors](http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace/mfmp_vendors)

**State Contracts, State Purchasing Agreements, etc.:**

[http://dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/state\\_contracts\\_agreements\\_and\\_price\\_lists](http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists)

Once there you may view:

- Florida Climate Friendly Products List
- State Term Contracts
- State Purchasing Agreements
- Alternate Contract Source
- RESPECT
- PRIDE

**Florida Vendor Bid System (VBS):**

At [www.myflorida.com](http://www.myflorida.com) click on Business, then click on Doing Business with the State, under Everything for Vendors and Customers, click on the Vendor Bid System, then Search Advertisement; select the Department of Education in the Agency drop down window and initiate search at bottom of page.

**Office of Supplier Diversity** website:

[http://dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd/](http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/)

Once there you may view:

**Agency Spending Plans**

**Access Certified MBE Online Directory**

## MINORITY BUSINESS VENDOR CODES

MBE CODE KEY		MBE CODE KEY	
A	NON-MINORITY	O	HISPANIC, NON-CERTIFIED
B	SMALL BUSINESS (STATE & FED.)	P	ASIAN/HAWAIIAN, NON-CERTIFIED
C	SMALL BUSINESS (FEDERAL)	Q	NATIVE AMERICAN, NON-CERTIFIED
D	MINORITY BUSINESS (FEDERAL)	R	AMERICAN WOMAN, NON-CERTIFIED
E	GOVERNMENTAL AGENCIES	S	NON-PROFIT, MINORITY BOARD
F	NON-PROFIT ORGANIZATIONS	T	NON-PROFIT, MINORITY EMPLOYEES
G	P.R.I.D.E.	U	NON-PROFIT, MINORITY COMMUNITY
H	AFRICAN AMERICAN, <b>CERTIFIED</b>	V	OTHER NON-PROFIT
I	HISPANIC, <b>CERTIFIED</b>	W	SERVICE DISABLED VETERAN, <b>CERTIFIED</b>
J	ASIAN / HAWAIIAN, <b>CERTIFIED</b>	Y	SERVICE DISABLED VETERAN, NON CERTIFIED
K	NATIVE AMERICAN, <b>CERTIFIED</b>	Z	<b>NO SELECTION</b>
M	WOMAN, <b>CERTIFIED</b>		
N	BLACK, NON- <b>CERTIFIED</b>		

# Methods Of Procurement

# METHODS OF PROCUREMENT

Various procurement methods are used to meet the Department's needs based on the following: Chapters 120, 283, 287, Florida Statutes; Sections 215.422, 216.3475, 413.036, 946.515, Florida Statutes; Subtitle 60A Florida Administrative Code; Comptroller's Voucher Processing Handbook; Comptroller Memoranda – <http://myfloridacfo.com/aadir/aamindex.htm> and Department policies and procedures (IOP). If you have a question about which purchasing method is most appropriate when procuring commodities and contractual services please contact someone in the Procurement Management Services Office.

The Department's procurement options and/or methods are as follows:



- State Term Contracts
- PRIDE
- RESPECT
- State Purchasing Agreements (SPA)
- Alternate Contract Source
- Request for Quotation (RFQ)
- Request for Information (RFI)
- Exempt Purchases
- Small Dollar Purchases
- Informal Solicitations (up to Category Two)
- Formal Solicitations (above Category Two) for Department contracts through Invitation to Bid (ITB), Request for Proposal (RFP), and Invitation to Negotiate (ITN)
- Single Source
- Emergency Purchases
- Specific Appropriations

The following table will provide guidelines to assist Requesters in determining which vehicle to use:

<b>DOE Procurement Threshold Requirements</b>	
<b>Threshold</b>	<b>Requirements</b>
Commodities Category Two or less	<ul style="list-style-type: none"> <li>• State term, Non-state term — issue Order</li> </ul>
Services Category Two or less	<ul style="list-style-type: none"> <li>• State term, Non-state term — issue Order (Contractual Order where risk of liability is of concern) and, if appropriate, attach a statement of work</li> </ul>
Commodities in excess of Category Two up to and including Category Three	<ul style="list-style-type: none"> <li>• State term — issue Order</li> <li>• Non-state term—issue Order and/or, as appropriate, Contract</li> </ul>
Services in excess of Category Two up to and including Category Three	<ul style="list-style-type: none"> <li>• State term — issue Order and attach a statement of work</li> <li>• Non-state term—Contract</li> </ul>
Commodities in excess of Category Three	<ul style="list-style-type: none"> <li>• State term — issue Order and, where appropriate, a Contract</li> <li>• Non-state term — issue Order or, as appropriate, Contract</li> </ul>
Services in excess of Category Three	<ul style="list-style-type: none"> <li>• State term — issue Contractual Order or, as appropriate, Contract</li> <li>• Non-state term—Contract</li> </ul>
Requirements are for multiple years	<ul style="list-style-type: none"> <li>• Contract</li> </ul>

**Notes:**

1. A change order or amendment increasing the total amount of the procurement to a higher threshold amount will necessitate compliance with the higher threshold requirements.
2. Contracts, change orders for contractual Orders, and amendments must be routed through the Contract Administrator or Procurement Office and approved by the program area, budget and legal.
3. References to “statement of work” mean a statement describing the nature and scope of services, deliverables, performance measures associated with those deliverables, and other appropriate details. Where services are of a simple nature, such as routine maintenance, the nature of the services may be summarized on the Order, without the need for a separate statement of work.
4. The term “Contract” refers to the contract documents available on the website <http://intranet.fldoe.org/doe/purchasing/index.cfm>. There is a set of forms for state term contract procurements and the other is for non-state term procurements.
5. The appropriateness of the use of an Order and/or Contract for purchase of commodities over Category Two may vary depending on the circumstances. Please refer questions to Purchasing.
6. The threshold for a procurement of a combination of commodities and services shall be the same as the threshold for a procurement of services.

## A. Purchasing Thresholds

One of the determining factors in deciding the method of procurement and the required contract documentation is the actual dollar amount of the commodities and/or contractual services to be purchased.

### PURCHASING CATEGORY THRESHOLD AMOUNTS

CATEGORY ONE .....	\$ 20,000
CATEGORY TWO .....	\$ 35,000
CATEGORY THREE .....	\$ 65,000
CATEGORY FOUR .....	\$195,000
CATEGORY FIVE .....	\$325,000

All contracts above the threshold amount for Category Two must be procured using competitive procurement except as exempted by state procurement law.

## B. Non Competitive Procurement Methods

Those commodities and/or contractual services acquired by the Department without the use of competitive solicitation such as an ITB, RFP or ITN are procured using a Non Competitive Method of Procurement. These include:

- State Term Contracts
- PRIDE
- RESPECT
- Alternate Contract Source
- State Purchasing Agreements (SPA)
- Single Source
- Emergency Purchases
- Exempt Purchases
- Specific Appropriations
- Request for Information (RFI)



## **STATE TERM CONTRACTS**

A term contract that is competitively procured by the DMS pursuant to s. 287.057 Florida Statute and is used by agencies and eligible users pursuant to s. 287.056 Florida Statute. The directory of state contracts may be accessed by going to [www.myflorida.com](http://www.myflorida.com) and clicking on the Business link, then on Doing Business with the State, under Everything for Vendors and Customers.

To the maximum extent feasible, the Department must use state contracts to purchase products or materials that may be recycled or reused when these products or materials are discarded.

To increase the visibility and purchase of environmentally preferable products (EPPs) that are available on current state contracts, Department requesters are encouraged to find potential green products that may meet their office's needs.

## **PRIDE**

Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) is a general manufacturing and services Management Company that operates 51 diverse industries in 21 correctional institutions throughout the State of Florida. Agencies must purchase products from PRIDE as long as products or services meet comparable specifications, quality and price.

## **RESPECT**

RESPECT of Florida is the central nonprofit entity of the State of Florida Commission for Purchase from the Blind or Other Severely Handicapped. Purchases from RESPECT are exempt from competitive bidding requirements. If the products are available, the Department must purchase them from RESPECT, however, when the commodity or service cannot be provided by the time needed, it may be purchased from another source. Documentation must be filed with the requisition.

## **ALTERNATE CONTRACT SOURCE**

A process by which an agency may use another agency's competitively procured contract with DMS approval.

## **STATE PURCHASING AGREEMENTS (SPAs)**

State Purchasing Agreements (SPAs) are DMS agreements for commodities and services that are not available from a State Term Contract. SPAs are not mandatory and are available for use provided the Department does not exceed Category Two on any one agreement. Purchases exceeding Category Two agency wide for any agreement must be handled in compliance with 287 F.S.

## SINGLE SOURCE

A Single Source purchase is exempt from competitive bidding because it is available from only one source. The Single Source justification should explain why the product or service is available from only one source and should include:

- Description and use (in layman's terms).
- List unique features that this item or service has that other comparable items or services lack, and why these unique features are needed. Show as clearly and concisely as possible why only this item or this service will accomplish the function required.
- Explain if the product or service is being purchased directly from the manufacturer. If not, explain why the item cannot be bid to the various dealers.
- Documentation of efforts made to identify other sources of supply.
- Explain the necessity for compatibility with existing equipment or instrumentation, if applicable.
- Provide proof of copyright or patent.
- Price cannot be used as a justification for a single source.
- Documented price analysis proving the agreed price is fair, reasonable and is not more than the competitive market rate. This may be accomplished by researching the current market price for the commodity or service.

The Project Manager/requester will furnish, along with a Single Source justification, a current written quotation from the vendor.

When the Department believes that commodities or contractual services are available only from a single source in excess of Category Two, the Department must electronically post a description of the commodities or contractual services sought for a period of at least ten (10) business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. If it is determined in writing by the Department, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the Department must:

- Provide notice of its intended decision to enter a single-source purchase contract in the manner specified in s. 120.57(3), F.S., if the amount of the contract does not exceed the threshold amount provided in s. 287.017, F.S. for Category Four.
- Request approval from the DMS for the Single-Source purchase, if the amount of the contract exceeds the threshold amount provided in s. 287.017, F.S. for Category Four. The Department must initiate its request for approval via the Procurement Office on the required forms authorized by the Department head or designee in a form prescribed by the DMS, which request may be electronically transmitted.

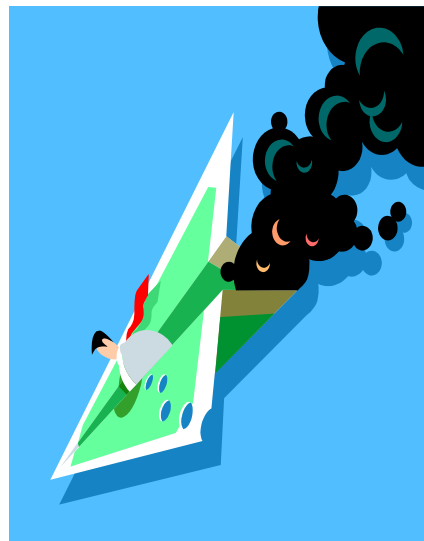
The failure of DMS to approve or disapprove the Department's request for approval within 21 days after receiving such a request will constitute approval of DMS. If DMS approves the Department's request or if the contract does not exceed Category Four, the Department must then provide notice of its intended decision to enter a single source contract in the manner specified in s. 120.57(3), F.S.

Contractual services contracts costing more than the threshold amount provided for in s. 287.017, F.S. for Category Three shall include legal review and approval. Such reviews and approvals shall be obtained before the contract is executed.

In any procurement that costs more than the threshold amount provided for in s. 287.017, F.S. for Category Two and is accomplished without competition, the individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected (See Attestation of No Conflict of Interest).

## **EMERGENCY PURCHASES**

For an emergency purchase, the Department head must determine in writing that an immediate danger to the public health, welfare, safety or other substantial loss to the State exists and requires emergency action. After the Department head makes a written determination, the Department may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies. However, such emergency procurement shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the Department determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state.



The Procurement Office completes the appropriate forms and must furnish copies of all written determinations certified under oath and any other documents relating to the emergency action to DMS. A copy of the statement must be furnished to the Comptroller with the voucher authorizing payment.

Contractual services contracts costing more than the threshold amount provided for in s. 287.017, F.S. Category three shall include legal review and approval. Such reviews and approvals shall be obtained before the contract is executed.

## **EXEMPT PURCHASES**

These services are not subject to the competitive sealed bid requirements of subsections 287.057(1) or (3c), F.S., but is subject to all other provisions of Chapter 287 F.S., and the laws relating to the State Chief Financial Officer's authority to audit expenditures for contractual services. The following contractual services and commodities are not subject to the competitive-solicitation requirements, however, whenever possible competition should be incorporated into the Department's procurements:

1. Artistic services
2. Academic program reviews
3. Lectures by individuals
4. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services
5.
  - a. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration
  - b. Health services, including, but not limited to, substance abuse and mental health services, involving examination, diagnosis, treatment, prevention, or medical consultation, when such services are offered to eligible individuals participating in a specific program that qualified multiple providers and uses a standard payment methodology. Reimbursement of administration costs for providers of services purchased in this manner shall also be exempt. For purposes of this sub-paragraph, “providers” means health professionals, health facilities, or organizations that deliver or arrange for the delivery of health services.
6. Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the United States Internal Revenue Code or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the vendor, past performance, willingness to meet time requirements, and price.
7. Medicaid services delivered to an eligible Medicaid recipient unless the agency is directed otherwise in law.
8. Family placement services
9. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the vendor, past performance, willingness to meet time requirements, and price.
10. Training and education services provided to injured employees pursuant to s. 440.491(6), Florida Statutes.
11. Contracts entered into pursuant to s. 337.11, Florida Statutes.
12. Services or commodities provided by governmental agencies.
13. Continuing education events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program are exempt from requirements for competitive solicitation.

14. Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are exempt from solicitation requirements and must be procured pursuant to an established fee schedule or by any other method that ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs.

## SPECIFIC APPROPRIATIONS

A contract for commodities or contractual services may be awarded without competition if state or federal law prescribes with whom the agency must contract or if the rate of payment is established during the appropriation process.

## REQUEST FOR INFORMATION (RFI)

RFI is a formal written request made by the Department to vendors for information concerning commodities or contractual services. This process may be used to develop the scope of work when not known. Responses to such requests are not offers and may not be accepted by the Department to form a binding contract. Vendors submitting answers to an RFI are not prohibited from responding to any related subsequent solicitation.

## C. Competitive Procurement Methods

- Request for Quotation (RFQ)
- Small Dollar Purchases (less than \$2,500)
- Informal Solicitations (up to Category Two)
- Formal Solicitations (above Category Two) for Department contracts through Invitation to Bid, (ITB), Request for Proposal (RFP) and Invitation to Negotiate (ITN)



## REQUEST FOR QUOTE

Agencies and eligible users may use a Request for Quote (RFQ) to obtain written pricing or services information from a state term contract vendor for commodities or contractual services available on state term contract from that vendor. The purpose of a RFQ is to determine whether a price, term, or condition more favorable to the Department than that provided in the state term contract is available. This process is recommended for state term contracts that have multiple contractors. Some multiple award contracts require use of the RFQ, the language in the contract must be reviewed to determine if it is required. Award of a RFQ does not constitute a decision or intended decision that is subject to protest under s. 120.57(3) and therefore, need not be publicly posted. Some other guidelines are:

- Scope of Work or Specification should be provided to the selected state contract vendors with a deadline for responses.

- Quotes shall be in writing but otherwise informal, and need not be received or posted publicly or at a particular time or place.
- Quotes shall only be solicited from Contractors on the state term contract being utilized. Competing with other state contract vendors and based on a specific Scope of Work/Specification, contractors may provide better prices terms and conditions than provided in the contract.
- A minimum number of quotes must be provided based on the requirements in the State Contract. If less than this number of quotes are received, documentation must be maintained in the procurement file (MFMP requisition).
- Purchase shall be made with the Contractor quoting the lowest price, unless documentation is provided demonstrating that the lowest price quote would not result in the best value to the state.
- Staff Augmentation: If services are purchased using a position title and hourly rate it is considered staff augmentation and there must be a cost/benefit analysis provided (cost/benefit analysis – what is the benefit we expect to realize by doing this – how will it help achieve the purposes of the program and why we need to procure the services rather than using existing staff). This documentation must be retained in the procurement file. If the project is by position title and hourly rate the Department's contract/Order may not exceed the end of the state contract term. A contract based on tasks and/or deliverables with a total cost does not require a cost/benefit analysis and may extend beyond the end of the state contract.

## **SMALL DOLLAR PURCHASES**

Purchases of value below \$2,500.00 should be made utilizing good procurement practices that may include but are not limited to, written quotations or written records of verbal quotations. At least one quote should be requested from a certified minority vendor (CMBE), if available. If no certified minority vendor quote is included, documentation must be provided explaining why. Minority vendor quotes should be identified with the minority type or code.



## **INFORMAL SOLICITATION**

Purchases of value between \$2,501.00 and \$15,000.00 require a minimum of two (2) written quotes or written records of two (2) telephone quotations. Purchases of value between \$15,001.00 up to and including Category Two require a minimum of three (3) written quotations or informal bids to be opened upon receipt. At least one quote should be requested from a certified minority vendor

(CMBE), if available. If no certified minority vendor quote is included, documentation must be provided explaining why. Minority vendor quotes should be identified with the minority type or code.

**NOTE:** If written quotations are not received, a detailed justification should be provided in the Comments section of the requisition (PR).

## FORMAL SOLICITATIONS

The process for purchases in excess of Category Two must be made by formal competitive sealed bids (i.e., ITB, RFP, ITN) to ensure fair and open competition, except as otherwise provided by law (e.g., Single Source, Exceptional, Emergency and Exempt Purchases). The Procurement Office should be contacted prior to beginning development of any formal procurement. Contact the Procurement Director and schedule an appointment for a pre-solicitation consultation. This should occur at the conception of the project.

Contractual services contracts costing more than the threshold amount provided for in s. 287.017, F.S. for Category Three shall include legal review. Such reviews and approvals shall be obtained before the contract is executed. All formal solicitations estimated at more than the threshold amount provided in Category Four must be submitted to the DMS, OSD 30 days prior to advertising. The OSD within 20 days after receipt may propose the implementation of minority business enterprise utilization provisions or submit alternative procurement methods that would significantly increase minority business enterprise contracting opportunities. Formal solicitations estimated at less than the Category Four threshold must be submitted to OSD on an FYI basis.

Public advertising of solicitations must be posted at least 10 calendar days before the date set for receipt of bids, proposals, or replies unless DMS or the Department determines in writing that a shorter period of time is necessary to avoid harming the interests of the State.

For RFPs and ITNs in excess of the threshold amount provided in s. 287.017, F.S. for Category Four, the Department head must appoint:

- At least three persons to evaluate proposals and replies that collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought.
- (For ITN only) At least three persons to conduct negotiations during a competitive sealed reply procurement who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought.

Contracts for commodities or contractual services may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer. Renewal of a contract for commodities or contractual services must be in writing and must be subject to the same terms and conditions set forth in the initial contract. If a contract may be renewed, the renewal terms must be included in the solicitation document and contingent upon satisfactory performance evaluations and subject to the availability of funds.

At the discretion of the Department, a performance bond may be required as part of the bid response requirements. Penalties and sanctions with details should also be considered in cases of non performance of task.

Unless it does not apply to the specific procurement, solicitation document should request reporting of subcontract spending with Certified Minority Businesses. This report should be supplied with each invoice and forwarded to the Department's Equity in Contracting Coordinator or designee.

Bid Openings are open to the public and the ITB will consist of reading vendor names and prices. RFP and ITN openings should usually consist of opening of technical responses and/or price proposals, reading vendor name and prices as applicable. Exceptions should be discussed with the Procurement Office.

For an ITB or RFP if the Department rejects all bids or proposals and concurrently provides notice of its intent to reissue the solicitation, bids or proposals received remain exempt from public record requirements until the Department provides notice of a decision or until the reissued solicitation is withdrawn.

Legal review and approval is required for all formal procurement of contractual services over Category Three or other procurements which may result in a contract which requires legal review.

All formal procurement solicitation documents or proposals must include a scope of work. The scope of work shall:

- Be specific
- Be clearly established
- Be directly related to the goals and objectives of the program
- Include:
  - All of the activities and services that the provider is to perform
  - All of the products the provider is to furnish
  - Minimum performance standards such as staffing levels, minimum qualifications for staff, number of clients served, etc.

#### Scope of Work Examples:

**Vague** - "The provider is to offer an educational program for up to 30 children. Program activities may include tutoring, counseling or other activities. The provider is responsible for providing staff to sufficiently operate the program."

**More Specific** - "Provider is to conduct an after school study program for 30 at risk children (as defined in Appendix A) on a full time basis (as defined in Appendix B) at the vendor's location Monday through Friday 3:00PM to 6:00PM for the period of 7/1/03 to 6/30/04 . . . Staff will consist of a minimum of 1 supervisor and six tutors who meet the minimum qualifications defined in Appendix C."

The solicitations must also specify deliverables that shall:

- Be directly related to the scope of work
- Be used to measure the provider's progress
- Be specific and verifiable

- Identify the events that will trigger payment
- Identify the payment amount for each deliverable
- Be a necessary part of the provider's performance
- Be identified in the agreement along with a description of what constitutes successful performance of the event
- Include minimum performance standards

Consideration must be given to the agreement type during the development of the solicitation document and should be related to the Scope of Work. The agreement type should be selected based on the one that best ensures the delivery of service, promotes efficiencies and effectiveness of services, and provides the best value to the State. Three basic agreement types exist, but each may have the following advantages/disadvantages:

- Fixed Price/Fixed Rate Price – Specified unit and rate (may be multiple units and rates) – the contractor is paid a pre-determined price for each unit. A unit of service may be based on time, tasks, activities, contacts or any combination thereof.
- Cost Reimbursement - This payment method is utilized when it is desired to exercise some degree of control regarding the contractors' costs incurred in delivering the contracted service. The contractor will be required to include a detailed budget of those line items identified/approved as allowable under the terms of the contract, the budgeted dollar amount for each line item, and a budget narrative. The contractor will be reimbursed for actual, allowable expenditures that are made within the limits of the approved budget. The contractor will have to submit periodic invoices that clearly identify these expenditures in accordance with the line items in the approved budget. Additionally, the expenditures reported on the invoice must be supported with documentation, which is required to accompany each invoice.
- Cost plus – Any combination of the above.

Formal Procurement Basic Steps/Timeline:

(Additional detailed regarding timeline in the attached at the end of this section – C. Competitive Procurement Methods)

- Project Manager must do a needs analysis
- Present general description, the estimated project value and the Division Office name to Procurement Director
- Engage in a Pre-solicitation Meeting with the Procurement Office representative(s)
- Determine procurement method in consultation with the Legal Office as appropriate
- Using a procurement template provided by the Procurement Office develop insert the Scope of Work/Specification, evaluation criteria associated points per criteria and provide to Procurement Office
- Establish a list of potential bidders which may include former successful providers and vendors who have expressed an interest

- Procurement Office Review (allow a minimum of 5 business days)
- Information Technology Review (if applicable)
- Legal Review; proof of legal review must be in Procurement's bid file prior to posting
- Final approved document will be provided to Project Manager by Procurement Office
- Review and approval by the Director of Administrative Services
- Procurement Office will provide document to DMS, Office of Supplier Diversity for review and comment (30 days before anticipated advertisement date. Need not be the final solicitation document)
- Advertise a minimum of 10 calendar days prior to the bid due date. Within that time period, a due date for technical questions must be established along with a due date for the Department to post responses to any questions received while allowing enough time for the vendors to respond after receiving the questions and answers.
- On the bid due date, responses (technical and/or prices) are opened and read aloud publicly at the specified time and location
- Procurement Office is provided a summary conclusion explaining the reason for the recommendation for RFPs and ITNs and a recommendation for ITBs.
- Results are posted for 72 business hours
- ITB and RFP documents are public 10 days after opening or posting of intended decision, whichever is earliest. If the Department rejects all bids/proposals records may remain exempt until the agency decision is posted for the reissued ITB or RFP.
- ITN documents are public when the agency decision is posted or 20 days after the last Best and Final Offer is opened, whichever is earlier. If the Department rejects all replies and reissues within 90 days after the notice to reject, all documents may remain exempt until a decision is posted or the reissued ITN is withdrawn. An ITN is not exempt longer than 12 months after the initial notice rejecting all replies.
- Verify that the awarded vendor is registered in MFMP and with the Department of State, Division of Corporations
- Projects over \$1 million vendor must sign a Scrutinized Companies attestation
- Verify vendor is not on Excluded Parties List
- Direct Order is executed or contract may be developed from the formal procurement, routed through the approval process and executed

## INVITATION TO BID (ITB)

Project Manager should contact the Procurement Director at the conception of the procurement for a pre-solicitation consultation.



A solicitation for sealed bids must be issued by the Procurement Office for the acquisition of commodities or contractual services when the Project Manager is able to define specifically the commodity, group of commodities, or scope of work for the service(s) for which bids are sought and price is the determining factor in award. An ITB must be made available simultaneously to all vendors and must include a detailed description of the commodities or contractual services sought; the time and date for the required submittal of bids and of the public opening; and all contractual terms and conditions applicable to the procurement including the criteria to be used in determining acceptability of the bid. If the Department contemplates renewal of the contract, that fact must be stated in the ITB. Evaluation of bids must include consideration of the total cost for each year as submitted by the vendor. Criteria that were not set forth in the ITB may not be used in determining acceptability of the bid.

Review the above FORMAL SOLICITATIONS section for additional information on ITB.

Basic Steps/Timeline is as outlined above in the FORMAL SOLICITATIONS section.

## REQUEST FOR PROPOSAL (RFP)

Project Manager should contact the Procurement Director at the conception of the procurement for a pre-solicitation consultation.

When the Department determines in writing that an ITB will not meet its needs the desired commodities, services and/or both may be procured by a RFP. This process is used when it is most advantageous to the state to take into consideration the price and other criteria that is set forth in a RFP and the purposes and uses for which the commodity, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables. Use of the RFP process must be approved in writing by the Deputy Commissioner, Finance and Operations or designee prior to submitting to the Procurement Office.

The RFP must be made available simultaneously to all vendors, and must include a statement of the commodities or contractual services sought; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement including the criteria, which must include, but need not be limited to, price, to be used in determining acceptability of the proposal. The relative importance of price and other evaluation criteria must be indicated. If the Department contemplates renewal of the commodities or contractual services contract, that fact must be so stated in the RFP. The proposal must include the price for each year for which the contract may be renewed. Evaluation of proposals must include consideration of the total cost for

each year as submitted by the vendor. The Procurement Office should provide pre-evaluation information for the members of the evaluation team.

#### Other Guidelines for RFPs

- An RFP should have:
  - Department contact information
  - A Schedule of Events.
  - The steps in the process.
  - Information on what must be included in the proposal response.
  - Evaluation Criteria.
    - Examples: Executive Summary, Management Plan, Technical Plan, Work Plan, Oral Presentation, Price etc.
  - Point allocation indicating the weight of each criteria
  - A description of the Evaluation Process.
- The RFP Process may include 2 openings. The first opening may be of the Technical Part of the Proposal and the second opening of the Price Part. However, whenever practicable, both Technical and Price should be opened at the same time. Proposal documents are public 10 days after the last opening or posting of intent to award, whichever is earliest.
- The RFP process may include a conference held by the Department to address interested vendors prior to the proposal due date.
- Pre-Bid Conferences are typically held when the Department believes discussion face to face interaction with interested vendors is needed. A conference may be mandatory or non-mandatory but must be specified in the solicitation document and in the advertisement.
- Oral Presentations from the vendors may be appropriate to provide information on their product/service to the Department as necessary but must be specified in the solicitation document if applicable.
- Each Evaluation Team must be composed of at least three (3) members, one of whom will serve as the chairman.
- Appointment of outside evaluation committee members on the basis of funding match and as agency policy.
- If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the Department shall formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes match to support the system of treatment or contracted service and if the match constitutes at least 25 percent of the value of the contract, the Department shall afford the governmental match contributor an opportunity to name an employee as one of the persons required by s. 287.057(16) F.S. to evaluate or negotiate certain contracts, unless the Department sets forth in writing the reason why such inclusion would be contrary to the best interest of the State.

- No governmental entity or unit of special purpose government may name an employee as one of the persons required by s. 287.057(16) F.S. if it, or any of its political subdivisions, executive agencies, or special districts, intends to compete for the contract to be awarded. The governmental funding entity or match contributor shall comply with any deadlines and procurement procedures established by the Department. The Department may also involve non-governmental funding entities in the procurement process when appropriate.
- The program area should obtain approval of the Evaluation Team from the Department head or designee prior to advertising the solicitation. However, approval must be received prior to the proposals being released to committee. Approval is required from the Deputy Commissioner, Finance and Operations prior to the Department head's approval for those areas reporting to the Deputy Commissioner, Finance and Operations.
- Meetings of the Evaluation Team are public meetings and must be properly noticed.
- Members of the Evaluation Team cannot discuss the evaluations outside of the public meeting.
- Members of the Evaluation Team must sign a Conflict of Interest attestation prior to the public meeting.
- Evaluators are provided a copy of the proposals from all proposers meeting the mandatory requirements as noted in the solicitation document and a copy of the solicitation document.
- The Evaluation Team will evaluate each proposal according to the demonstrated ability to satisfy the Department's requirements as identified in the solicitation document.
- Responses will be rated according to the extent the proposal met the established criteria.
- Evaluation Team members may evaluate proposals individually (not open to the public) or meet as a team (open to the public). Individually scored proposals may be discussed in a team public noticed meeting for the following: a consensus score; or to discuss the proposals prior to submitting the evaluator's individual scores, which may then be added together, totaled and divided by the number of evaluators for each proposal.
- After proposals are evaluated and scored, proposals are then ranked by highest to lowest score.
- Proposals will advance to the next step based on the requirements in the solicitation document. (Examples: all proposals scoring above 70 points will be required to participate in oral presentations; top 3 proposals participate in orals or have price opened; or Proposer's score is added to the score for price etc.).
- Price analysis is conducted through the comparison of price quotations submitted. Price score will be added to the Technical Evaluation Score to calculate the overall score. Price

score may be calculated by (Low Price divided by Proposer's Price) x Maximum Price Points = Proposer's Awarded Points.

- Scores from the Technical Proposals making it to this point are added to establish the total points for each overall proposal.
- The project manager recommends the proposal with the highest overall points.
- Procurement Office is provided a summary conclusion explaining the reason for the recommendation.
- Decision is approved by appropriate management (Department head if applicable).
- Agency Decision is posted electronically on the DMS, Vendor Bid System for 72 business hours. Any Proposer who is adversely affected by the recommended decision may file a protest. Intent to Protest must be filed with the Procurement Office within this 72 business hour period.

Review the above FORMAL SOLICITATIONS section for additional information on RFP.

Basic Steps/Timeline is as outlined above in the FORMAL SOLICITATIONS section plus:

- The use of the RFP procurement method must be documented that an ITB will not meet the Department's need.
- Department head or designee's approval of the Evaluation Team should occur before the solicitation is advertised, but must be completed prior to proposals being distributed to evaluation committee.
- If the RFP specifies two openings, technical is opened and evaluated and price opened separately after the proposal due date.
- If Pre-Bid Conference(s) are specified in the solicitation document, they must be held prior to the proposal due date.
- If Oral Presentations are specified in the solicitation document, they are held as outlined in the document.

## INVITATION TO NEGOTIATE (ITN)

Project Manager should contact the Procurement Director at the conception of the procurement for a pre-solicitation consultation and the Procurement Office should provide pre-evaluation information to the evaluation team members.

The Department may procure commodities and contractual services by competitive sealed replies. The Department must maintain written determination and must specify reasons that explain why negotiation may be necessary in order for the State to achieve the best value. Use of this procurement method must be approved in writing by the Department head or designee prior to the advertisement of an ITN.



The ITN is used to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors the agency may negotiate in order to receive the best value.

Some examples of when this method may be used:

- The scope of work for the contract cannot be clearly defined by the Department. This often occurs for acquisitions of rapidly changing technology, outsourcing or complex services.
- The commodities/services can be provided in several different ways, any of which could be acceptable. This often occurs for acquisition of emerging technologies or complex services.
- The Department determines qualifications of providers and quality of work is more important than price.
- The Department is seeking innovative solutions.

An ITN must be made available simultaneously to all vendors and must include a statement of the commodities or contractual services sought; the time and date for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the reply. If the Department contemplates renewal of the contract, that fact must be stated in the ITN. The reply must include the price for each year for which the contract may be renewed.

The Department must evaluate and rank responsive replies against all evaluation criteria set forth in the ITN and must select, based on the ranking, one or more vendors with which to commence negotiations. After negotiations are conducted, the Department must award the contract to the responsible and responsive vendor that the Department determines will provide the best value to the State. The contract file must contain a short plain statement that explains the basis for vendor selection and that sets forth the vendor's deliverables and price pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the State. Prior to the time for receipt of replies, the Department may conduct a conference or written question and answer period for purposes of assuring the vendor's full understanding of the solicitation requirements. The vendors must be accorded fair and equal treatment.

The Procurement Office shall provide pre-negotiation information to the members of the negotiation team.

Other Guidelines for Negotiations:

- Documentation of the conditions and circumstances that resulted in the decision to use the ITN instead of the ITB or RFP and that the ITB or RFP will not result in the best value to the State.
- Each Evaluation/Negotiation Team must be composed of at least three members, one of whom will serve as the chairman.
- The program area should obtain approval of the Evaluation/Negotiation Team from the Department head or designee prior to advertising the solicitation, but must be obtained prior to the Replies being released to the committee. Approval may be required from the

Deputy Commissioner, Finance and Operations prior to Department head approval for those areas reporting to him/her.

Suggestions of who should serve on the Negotiation Team include: an individual familiar with contract negotiations, an individual familiar with the program area and service requirements, someone with a business process perspective (finance), someone with a technical perspective (information technology), and someone familiar with contract procurement. Others with needed expertise can be available “on call”, but need not necessarily participate in the meetings. It is recommended that the Negotiation Team be the same or a subset of the Evaluation Team

- Members of the Evaluation/Negotiation Team cannot discuss the negotiations outside of the public meeting.
- Negotiations can be conducted with one or more companies in one of two ways depending upon the ITN. (1) Concurrently – meeting with multiple vendor, or (2) serially - meeting with the first ranked vendor, and if no agreement is reached, moving on to the second ranked vendor. Negotiation meetings are open to the public.
- Negotiation team members should prepare questions and comments to be discussed with vendors.
- As meetings continue and the positions of both sides evolve, it’s a good idea to submit written discussion topics to vendors prior to the next meeting.
- In the negotiation process, encourage revision of requirements and proposals as best meets the needs of the state and the capabilities of the vendors, keep communications open and document any changes or alternatives. Since the process of involving two or more vendors is competitive, each will in effect assist you in evaluating the other’s claims, objections, suggestions and prices.
- It is desirable to get the “Best and Final Offer” in writing before the last meeting and let that meeting be a presentation and discussion of it, not to indicate acceptance, but to be sure everyone understands it. It is allowable to have pen-and-ink corrections signed by an authorized representative at that meeting.
- The Negotiation Team should select the best offer using the criteria that have been announced in the solicitation.
- Price is negotiated based on agreed upon scope of work.
- Once the vendor has been selected, Procurement Office is provided a summary conclusion explaining the reason for the recommendation after which the Agency Decision is posted electronically on the DMS, Vendor Bid System for 72 business hours. Any Respondent who is adversely affected by the recommended decision may file a protest. Intent to Protests must be filed with the Procurement Office within this 72 hour period.

Review the above FORMAL SOLICITATIONS section for additional information on ITN.

Basic Steps/Timeline is as outlined above in the FORMAL SOLICITATIONS section plus:

- The use of the ITN procurement method may require approval by the Deputy Commissioner, Finance and Operations or designee subsequently the Department head or designee. Documentation must specify reasons that explain why negotiations may be necessary in order to achieve the best value.
- Department head or designee's approval of the Evaluation Team and the Negotiation Team should occur before the solicitation is advertised, but must be completed prior to Replies being distributed to team members.
- If the ITN specifies multiple openings, technical is opened and evaluated and price opened separately after the Proposal Due Date.
- If Conferences or Presentations are specified in the solicitation document, they are held as outlined in the document.

## **EVALUATION COMMITTEE APPOINTMENTS**

Prior to advertising Request for Proposals (RFP) and Invitations to Negotiate (ITN) in excess of the threshold amount provided in s. 287.017, Florida Statutes for CATEGORY FOUR, the agency head shall approve: (a) At least three persons to evaluate responses who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought. (b) For ITNs at least three persons to conduct negotiations during an ITN who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought. It is the department's policy to include at least one member of the evaluation and negotiation teams from outside of the department. When the contract value is in excess of \$1 million in any fiscal year, at least one of the persons conducting negotiations must be certified as a DMS Certified Contract Negotiator. If the value of the contract is in excess of \$10 million in any fiscal year at least one of the persons conducting negotiations must be a Project Management Professional (PMP) as certified by the Project Management Institute. **Sample letters are attached.**

## **APPOINTMENT OF OUTSIDE EVALUATION COMMITTEE MEMBERS ON THE BASIS OF FUNDING MATCH**

If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the Department shall formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes match to support the system of treatment or contracted service and if the match constitutes at least 25 percent of the value of the contract, the Department shall afford the governmental match contributor an opportunity to name an employee as one of the persons required by s. 287.057(16) F.S. to evaluate or negotiate certain contracts, unless the Department sets forth in writing the reason why such inclusion would be contrary to the best interest of the State.

No governmental entity or unit of special purpose government may name an employee as one of the persons required by s. 287.057(16) F.S. if it, or any of its political subdivisions, executive agencies, or special districts, intends to compete for the contract to be awarded. The governmental funding entity or match contributor shall comply with any deadlines and procurement procedures established by the department. The department may also involve non-governmental funding entities in the procurement process when appropriate.

## **VENDOR INELIGIBILITY TO PARTICIPATE IN COMPETITION FOR A CONTRACT**

A person who participates in the drafting of a solicitation or who develops a program for future implementation is not eligible to contract with the agency for any other contracts dealing with that specific subject matter; nor shall any firm in which such person has any interest in be eligible to receive such contract. However, this prohibition does not prevent a vendor who responds to a request for information from being eligible to contract with an agency.

## **EXCEPTIONAL PURCHASES**

Exceptional purchases are any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation, including, but not limited to:

- Emergency Purchase
- Purchases from a single source;

Exceptional purchase contracts are pursuant to s. 287.057(3)(a) and (c), F.S. and may not be renewed.

Contractual services contracts costing more than the threshold amount provided for in s. 287.017, F.S. for Category Three shall include legal review and approval. Such reviews and approvals shall be obtained before the contract is executed.

## **ONE OR NO RESPONSE**

When only one or no responsive bids, proposal or replies are received to a competitive solicitation and a decision is made that conditions and circumstances warrant negotiation on the best terms and conditions immediately contact the Procurement Office for assistance.

## PROCUREMENTS FOR OUTSOURCING

It is the intent of the Legislature that each state agency focus on its core mission and deliver services effectively and efficiently by leveraging resources and contracting with private sector vendors whenever vendors can more effectively and efficiently provide services and reduce the cost of government.

A business cases to outsource must be evaluated for feasibility, cost-effectiveness, and efficiency before a state agency proceeds with any outsourcing of services. Exceptions are procurement under 287.057 (3)(e), (f) and (g).

For any proposed outsourcing, the Department shall develop a business case that justifies the proposal to outsource. Business cases may be prepared using the Legislative Budget Request (LBR) and submitted in compliance with 216.023 F.S.. The business case is not subject to challenge or protest pursuant to chapter 120.

An agency shall complete a business case for any outsourcing project that has an expected cost in excess of \$10 million within a single fiscal year. The business case shall be available as part of the solicitation but is not subject to challenge and shall include the following:

- (a) A detailed description of the service or activity for which the outsourcing is proposed.
- (b) A description and analysis of the Department's current performance based on existing performance metrics if the Department is currently performing the service or activity.
- (c) The goals desired to be achieved through the proposed outsourcing and the rationale for such goals.
- (d) A citation to the existing or proposed legal authority for outsourcing the service or activity.
- (e) A description of available options for achieving the goals. If state employees are currently performing the service or activity, at least one option involving maintaining state provision of the service or activity shall be included.
- (f) An analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks.
- (g) A description of the current market for the contractual services that are under consideration for outsourcing.
- (h) A cost-benefit analysis documenting the direct and indirect specific baseline costs, savings,



and qualitative and quantitative benefits involved in or resulting from the implementation of the recommended option or options. Such analysis must specify the schedule that, at a minimum, must be adhered to in order to achieve the estimated savings. All elements of cost must be clearly identified in the cost-benefit analysis, described in the business case, and supported by applicable records and reports. The Department head shall attest that, based on the data and information underlying the business case, to the best of his or her knowledge, all projected costs, savings, and benefits are valid and achievable. As used in this section, the term “cost” means the reasonable, relevant, and verifiable cost, which may include, but is not limited to, elements such as personnel, materials and supplies, services, equipment, capital depreciation, rent, maintenance and repairs, utilities, insurance, personnel travel, overhead, and interim and final payments. The appropriate elements shall depend on the nature of the specific initiative. As used in this section, the term “savings” means the difference between the direct and indirect actual annual baseline costs compared to the projected annual cost for the contracted functions or responsibilities in any succeeding state fiscal year during the term of the contract.

- (i) A description of differences among current Department policies and processes and, as appropriate, a discussion of options for or a plan to standardize, consolidate, or revise current policies and processes, if any, to reduce the customization of any proposed solution that would otherwise be required.
- (j) A description of the specific performance standards that must, at a minimum, be met to ensure adequate performance.
- (k) The projected timeframe for key events from the beginning of the procurement process through the expiration of a contract.
- (l) A plan to ensure compliance with the public-records law.
- (m) A specific and feasible contingency plan addressing contractor nonperformance and a description of the tasks involved in and costs required for its implementation.
- (n) The Department’s transition plan for addressing changes in the number of Department personnel, affected business processes, employee transition issues, and communication with affected stakeholders, such as Department clients and the public. The transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the Department or employed by the contractor.
- (o) A plan for ensuring access by persons with disabilities in compliance with applicable state and federal law.
- (p) A description of legislative and budgetary actions necessary to accomplish the proposed outsourcing.

In addition to the contract requirements provided in s. [287.058](#), each contract for a proposed outsourcing, pursuant to this section, must include requirement from 287.0571(5).

## D. Contract Renewal

Contracts for commodities or contractual services may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer. A renewal contract may not include any compensation for costs associated with the renewal. Renewal of a contract for commodities or contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. A contract may not be renewed except as noted in the procurement document.

## E. Electronic Posting

The agency shall provide notice of its decision or intended decision concerning a bid solicitation, or a contract award, or exceptional purchase by electronic posting (a centralized internet website designated by the department (DMS) for this purpose). This website can be viewed at:

[http://vbs.dms.state.fl.us/vbs/main\\_menu](http://vbs.dms.state.fl.us/vbs/main_menu)

## F. Checklist for Formal Procurement

The checklist in Attachment A provides the parameters, at a glance, of necessary information required for successful solicitation. It is important that all of the information on this checklist be provided to the Procurement Office. This will expedite the process and reduce delays in getting the solicitation drafted.



## G. Contact with the Executive or Legislative Branch

Respondents to a 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. Violations of this provision may be grounds for rejecting a response.

# Pre-Solicitation Checklist

# PRE-SOLICITATION CHECKLIST

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

- Name/Phone Number of Contact Person:

: \_\_\_\_\_

- Name of the program office responsible for the solicitation:

: \_\_\_\_\_

- Estimated Value: \_\_\_\_\_ \$

If estimate is close to or over \$5 million include Preference to Vendors/Businesses in Florida per Chapter 2010-151 Laws of Florida, Section 49 requirements.

- Is this repurchase of an existing or previous contract? Yes \_\_\_\_ No \_\_\_\_ If yes, provide the contract or purchase order number and the previous procurement number.

\_\_\_\_\_

\_\_\_\_\_

- Background Information

What is the history of the project? What led up to the decision to develop a procurement to meet the need?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- The Purpose of this Solicitation is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- Will Americans with Disabilities Act (ADA) compliance be an issue in this procurement? \_\_\_\_\_  
\_\_\_\_ Yes \_\_\_\_\_ No

- Is this an outsourcing project?

Outsourcing is the process of contracting with a vendor to provide a service or activity while the state agency retains responsibility and accountability for the service or activity and there is a transfer of management responsibility for the delivery of resources and to performance of those resources.

Go to

[http://dms.myflorida.com/other\\_programs/council\\_on\\_efficient\\_government/resources\\_forms](http://dms.myflorida.com/other_programs/council_on_efficient_government/resources_forms) for information including "Guidelines and Instructions" where you can find "Florida Statute Outsourcing Contract Provisions", "Is my project and Outsource?" flowchart and much more.

- **Payment Terms** (monthly, quarterly, yearly, etc.) \_\_\_\_\_
- **Will the resulting agreement be by Direct Order or Contract?** \_\_\_\_\_
- **Anticipated Term of Contract** \_\_\_\_\_ Months/Years of contract
- **Required effective date** (if applicable) \_\_\_\_\_
- **Renewals, (if applicable)** \_\_\_\_\_ Months/Years of contract
- **Performance/Bid Bond required? (Identify which)** \_\_\_\_\_ Yes\_\_ No
- **Pre-Bid Conference required?** \_\_\_\_\_ Yes \_\_\_\_\_ No
- **Site visit required?** \_\_\_\_\_ Yes \_\_\_\_\_ No
- **Does The Single Audit Act Apply? (Yes Or No)** Contact Alricky Smith at 245-9875 For Assistance In Determination
- **How many people on evaluation/negotiation committee?** \_\_\_\_\_
- **Commodity Requirements**  
Provide a broad description of the equipment needs (if applicable):  
\_\_\_\_\_  
\_\_\_\_\_
- **Product Ownership**  
To whom does the final product/service belong?  
\_\_\_\_\_

*The above information will be discussed at a Pre-solicitation meeting and the Procurement Agent assigned will use this information to prepopulate the appropriate formal procurement template. The template is then provided to the project lead to complete the first draft. The above pages provide brief necessary information pertinent to beginning the procurement however more detailed information is required for completion of the solicitation document.*

**In the procurement template the below requested information must be provided.**

After the above pages have been completed, approved and submitted to the assigned Purchasing Agent, the Contact Person/Project Manager must provide the below more detailed information to be included in the solicitation document.

- **Requirement for services - Performance Standards**

Please develop the complete scope of services including but not be limited to: what work is to be accomplished; what tasks are to be included; what materials are to be furnished; what are the outputs; what are the required or anticipated outcomes; what reports are needed, content and schedule; milestones and completion; due dates or timeframes; staff and skills/licenses/certifications required; methods to be used or not used; location/service delivery area; program objectives etc.

- **Evaluation Criteria (for RFP and ITN)**

If RFP or ITN, please specify what evaluation criteria and associated points will be used. These criteria must be developed and points allotted for each criterion based on the relative importance of those criteria and price.

Examples: Management Plan – 20 point value; Qualifications and Experience – 30 point value; Technical Approach – 30 point value; Pricing – 20 point value; etc.

- **Response Requirements**

Identify information/documents etc. that will provide proof or evidence of experience or expertise or other necessary requirements in order for the vendor to prove their ability to perform services specified in the Scope of Work. In some instances this may help in determining to what degree a vendor meets or fails to meet a specified criterion.

- **Commodity Requirements**

Provide a list of the required products, specifications and quantities. Product equivalents may be used as opposed to detailed specifications (discuss with the assigned purchasing Agent).

- **Performance Standards**

Having provided the requirements and performance measures give consideration to penalties and sanctions that might be appropriate for the project. What are the standards of performance that respondent/product or both must meet? Include any due dates or timeline requirements. Provide qualitative standards/criteria for evaluating performance for each deliverable.

- **Deliverables:**

Deliverables are many times events that trigger payments. Specify deliverables that maybe used as verification that services have been rendered in accordance with the requirements. Deliverables should be directly related to scope of work; be used to measure the provider's progress; be specific, quantifiable, measurable and verifiable; include every event that will trigger a payment; be a necessary part of the provider's performance; be identified in the agreement along with a description of what constitutes successful performance of the event; and include minimum performance standards. Require some documentation to demonstrate the completion of each Deliverable. Deliverables ensure the agency gets what is required and pays for completed work rather than completed reports or for the passage of time.

- **Acceptance Criteria**

Identify what constitutes acceptance. What will be inspected or reviewed to determine the products and/or services provided are acceptable and what is the acceptable level of quality.

- **Price Sheet**

The price sheet must include prices for the original and renewals as applicable. If prices may have an uneven payment stream or uneven payment periods the evaluation of cost must include present value methodology. (*Contact the assigned purchasing agent*) Is there a need to allow vendors to provide a difference price for future contract periods? ☐ Yes

☐ No

- **Financial Consequences**

What are the consequences for non-performance or when services are not performed in accordance with requirement of the scope of services/deliverables? Identify things that may be done to allow for acceptance of a part of the work if the work is not completed. Example: The scope of services requires 20,000 applications be printed and sent to 5 schools as one of the deliverables, however only 4 schools received applications. How is the payment adjusted for the applications that were not delivered?

# Procurement Timeline

ACTION
Initial Overview Meeting with: <Names> <b>RTTT ONLY</b>
Pre-solicitation meeting held with: <Names>
Procurement Agent pre-populates procurement template. Pre-populated template submitted to Program Lead.
Program Lead develops Evaluation Criteria, Evaluation Scoring, Scope of Work, Deliverables, Price Sheet and if applicable, Bond.
Program Lead identifies other offices(including IT when applicable)/interested parties for review and input, prior to submission to the Procurement Agent
Program Lead drafts Request for Proposal (RFP) or Invitation to Negotiate (ITN) use letter.
Program Lead identifies Evaluation Team Members and drafts Evaluation Team Letter.
Program Lead identifies Negotiation Team Members and drafts Negotiation Team Letter. <b>ITN ONLY</b>
Program Lead establishes a list of potential bidders (e-mail address) and submit to Procurement Agent. Potential bidders may include former successful providers and vendors who have expressed an interest.
Program Lead submits Evaluation Criteria, Scope of Work, Deliverables, and Price Sheet to Procurement Agent for review.
Procurement Office Review (allow a minimum of 5 days). <i>The number of days is contingent upon the number of necessary changes/revisions.</i>
Procurement Office will provide document to DMS, Office of Supplier Diversity (OSD) for review and comment (30 days before anticipated advertisement date. Need not be the final solicitation document). Note: OSD has 21 days to approve . Can continue to move thru process while awaiting this approval.
Review and approval by the Budget and Program Office Budget Personnel (Only Annie Rosier & Alisa Golden for RTTT*) (allow 3 days). Note: Can be submitted simultaneously with submittal to Information Technology office
Information Technology Approval (if the purchase involves technology) (allow 5 days)
Program review (allow 3 days) <i>The number of days is contingent upon the number of necessary changes/revisions.</i>
Review and approval by Procurement Director (allow 2 days) - this can be greatly reduced in exigent circumstances.
Legal Review and approval (allow 5 days)

Final approval between Project Lead (includes Division Director/Chancellor level approval) and the Procurement Office. (allow 2 days)
Review and approval by the Bureau Chief of Contracts, Grants and Procurement (allow 2 days) - this can be greatly reduced in exigent circumstances.
Review and approval by the Assistant Deputy Commissioner (allow 2 days) - this can be greatly reduced in exigent circumstances.
Review and approval by the Deputy Commissioner, Finance and Operations. (allow 3 days)
Review and approval by the Commissioner of Education or designee (allow 3 days)
<b>Advertise a minimum of 30 calendar days prior to the bid due date. Includes a due date for technical questions from bidders with date answers due from the Department while allowing enough time for the bidders to respond after receiving the questions and answers. Could also include a bidders' conference.</b>
On the bid due date, responses (technical and/or prices) are opened and read aloud publicly at the specified time and location. Allow approx. 2 weeks between this and evaluation meeting (if applicable) for clarification/oral stage to take place.
Evaluations are conducted. All members must be available this date. Oral presentations from bidders or emailed questions to Bidders to clarify written responses conducted prior to group meeting or scores due to Procurement.
Negotiations with selected bidders. All team members must be available this date. Need to notify bidders at least 3 business days in advance of meeting date to allow them to make travel plans, etc. <b>ITN ONLY</b>
Best and final bids received <b>ITN ONLY</b>
Intent to award meeting (public) where final recommendation is made by vote after discussion. <b>ITN ONLY</b>
Procurement Office is provided a summary conclusion from Project Lead explaining the reason for the recommendation and the recommendation is sent to Commissioner for approval (7-10 days)
Results are posted for 72 business hours
Actual contract finalized - SEE CONTRACT TRACKING LOG

# **Evaluation Team Approval Memo RFP**

## PLACE ON CURRENT AGENCY LETTERHEAD

### MEMORANDUM

DATE: <#####>  
TO: Gerard Robinson, Commissioner  
FROM: <Division Level Approval>  
CC: Procurement Office  
SUBJECT: <RFP Title and RFP #>  
Approval of the Evaluation Committee

Approval is requested for the below named committee members to evaluate proposals in response to the subject RFP. This procurement <briely describe the services and provide its statutory authority >.

This request is in accordance with Section 287.057(16)(a) F.S., "For a contract in excess of the threshold amount provided in S.287.017 for CATEGORY FOUR, the agency head shall appointment: (a) At least three persons to evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for which commodities or contractual services are sought."

The following individuals collectively have experience and knowledge in the program areas and service requirements for this procurement and are proposed for your approval to form an evaluation committee for the Department's solicitation # <RFP 200X-XX>, <RFP Name>.

Thanks for your assistance.

#### Evaluation Committee

#### Area of Expertise

<Name 1>  
<Name 2>  
<Name 3>

Please indicate your approval by executing below.

---

Gerard Robinson, Commissioner

# **Evaluation & Negotiation Team Approval Memo ITN**

**\$1 Million and under**

**PLACE ON CURRENT AGENCY LETTERHEAD**

**MEMORANDUM**

DATE: <####>

TO: Gerard Robinson, Commissioner

FROM: <Division Level Approval>

CC: Procurement Office

SUBJECT: Establishment of Evaluation Committee and Negotiation Team in accordance with Section 287.057(16)(a)(b) F.S.

In accordance with Section 287.057(16)(a)(b) F.S., the following individuals are proposed to you for your acceptance to form an evaluation committee and negotiation team for the Department's solicitation # <ITN 200X-XX>, <ITN Name>.

The evaluation team members collectively have experience and knowledge in the program areas and service requirements for this procurement. The negotiation team members collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for this procurement.

<u>Evaluation Committee</u>	<u>Area of Expertise</u>	<u>Negotiation Team</u>	<u>Area of Expertise</u>
<Name 1>		<Name 1>	
<Name 2>		<Name 2>	
<Name 3>		<Name 3>	

Please indicate your approval by executing below.

---

Gerard Robinson, Commissioner

## Over \$1 Million Up to \$10 Million

### PLACE ON CURRENT AGENCY LETTERHEAD

#### MEMORANDUM

DATE: <####>

TO: Gerard Robinson, Commissioner

FROM: <Division Level Approval>

CC: Procurement Office

SUBJECT: Establishment of Evaluation Committee and Negotiation Team in accordance with Section 287.057(16)(a)(b) F.S.

In accordance with Section 287.057(16)(a)(b) F.S., the following individuals are proposed to you for your acceptance to form an evaluation committee and negotiation team for the Department's solicitation # <ITN 200X-XX>, <ITN Name>.

The evaluation team members collectively have experience and knowledge in the program areas and service requirements for this procurement. The negotiation team members collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for this procurement. The Negotiation Team also includes a Certified Negotiator.

<u>Evaluation Committee</u>	<u>Area of Expertise</u>	<u>Negotiation Team</u>	<u>Area of Expertise</u>
<Name 1>		<Name 1>	
<Name 2>		<Name 2>	
<Name 3>		<Name 3>	

Please indicate your approval by executing below.

---

Gerard Robinson, Commissioner

## Over \$10 Million

### PLACE ON CURRENT AGENCY LETTERHEAD

#### MEMORANDUM

DATE: <####>

TO: Gerard Robinson, Commissioner

FROM: <Division Level Approval>

CC: Procurement Office

SUBJECT: Establishment of Evaluation Committee and Negotiation Team in accordance with Section 287.057(16)(a)(b) F.S.

In accordance with Section 287.057(16)(a)(b) F.S., the following individuals are proposed to you for your acceptance to form an evaluation committee and negotiation team for the Department's solicitation # <ITN 200X-XX>, <ITN Name>.

The evaluation team members collectively have experience and knowledge in the program areas and service requirements for this procurement. The negotiation team members collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for this procurement. The Negotiation Team also includes a Project Management Professional.

<u>Evaluation Committee</u>	<u>Area of Expertise</u>	<u>Negotiation Team</u>	<u>Area of Expertise</u>
<Name 1>		<Name 1>	
<Name 2>		<Name 2>	
<Name 3>		<Name 3>	

Please indicate your approval by executing below.

---

**Gerard Robinson**, Commissioner

# Approval of ITN Process Memo

# PLACE ON CURRENT AGENCY LETTERHEAD

## Approval of ITN Process Memo

### MEMORANDUM

DATE: <#####>

TO: **Gerard Robinson**, Commissioner

FROM: <Division Level Approval>

CC: Procurement Office

SUBJECT: Authorization to Utilize Invitation to Negotiate (ITN) Process  
<ITN Short Title>

---

In accordance with Section 287.057(1)(c) Florida Statutes, and Rule 60A-1.041(2), Florida Administrative Code, this memo is to authorize use of the Invitation to Negotiate (ITN) process to procure <very brief description of products and services; short like the title>

The use of an Invitation to Bid (ITB) or a Request for Proposal (RFP) will not result in the best value to the state. It is necessary to negotiate in order for the state to achieve the best value due to the complexity of the procurement and non-standard and/or customized products/services being required. In addition, the flexibility provided by an ITN process is needed to achieve our agency's procurement goals, and this procurement is considered mission critical. Finally, the ITN process will allow us to obtain as many resolutions to our needs as our budget permits.

This procurement provides for the <more detailed info regarding the products and services being procured <description of the project>

Please indicate your approval by executing below.

---

Gerard Robinson, Commissioner

---

Date

# **Evaluation/Negotiation Meeting Guidelines and Instructions**

## **GUIDELINES AND INSTRUCTIONS FOR EVALUATION/NEGOTIATION TEAM MEETING**

1. The facilitator is the person responsible for ensuring the Department's policies and procedures are diligently followed during all evaluation meetings. The facilitator is authorized to take any action deemed necessary to ensure the integrity of the process.
2. All evaluators must adhere to the direction of the facilitator at all times.
3. No cell phones (blackberrys, etc.) are allowed to be used (or the appearance of being used) during the meeting.
4. No side conversations shall take place at any time during the meeting.
5. The evaluator must be present for the duration of the meeting. If the evaluator must leave the room (in case of emergency) the evaluator must notify the facilitator and the meeting will stop until the evaluator has returned. Sufficient breaks will be taken based on the length of the meeting.
6. No food will be allowed during the meeting.
7. Participation in this meeting is a very important function and should be taken very seriously. Timeliness and professionalism are key components to be considered when agreeing to serve.
8. Evaluators should instruct office personnel to contact ??? if there are emergency messages that must reach the evaluator during the meeting. These messages will be discretely provided to the facilitator who will provide the message to the evaluator at the next break. If appropriate a break will be immediately call.

# **Evaluation/Negotiation Team Guidelines and Instructions**

## GUIDELINES AND INSTRUCTIONS FOR EVALUATION COMMITTEE - ITN

1. The Evaluation Committee must be composed of at least three members, one of whom will serve as the chairperson. **No discussion** shall take place between Committee members outside of a publicly noticed meeting.
2. The Evaluation Committee must collectively have experience and knowledge in the program area and service requirements.
3. Evaluation Committee members will be provided a copy of the technical Replies that successfully pass the mandatory requirements evaluation conducted by the Procurement Office.
4. The Evaluation Committee will evaluate according to the Respondent's ability to best satisfy the Department's requirements/needs as specified in the ITN. An ITN is rated based on the demonstrated ability to provide the best value to the state.
5. If an evaluator has an interest in any of the Respondents they may not serve on the evaluation committee. Each member will be required to sign a "No Conflict of Interest" form.
6. Evaluators should compile any questions/issues that are "unclear" in the Reply to be provided to the Respondent during the oral presentation/seeking clarification stage. These questions/issues should be sent to the Purchasing Agent handling the procurement by the required submission date.
7. An evaluation score form will be developed based on the established points allotted for each criterion as identified in the ITN. A Reply may not obtain a score higher than the total points allotted in the ITN.
8. Once evaluations are complete, the score forms are turned in to the Procurement Office and the scores are summarized; the summary form is then provided to the Project Manager so a decision can be made as to who the Department will negotiate with.

## GUIDELINES AND INSTRUCTIONS FOR NEGOTIATION TEAMS

1. Each Negotiation Team should be composed of at least three members, one of whom will serve as the chairman. Fact finding meetings of the Negotiation Team are not public meetings.
2. Suggestions of who must serve on the Negotiation Team include: an individual familiar with contract negotiations, an individual familiar with the program area and service requirements that can make decisions regarding those services, someone with a business process perspective (finance), someone with a technical perspective (information technology), someone familiar with contract procurement. Others with needed expertise can be available "on call" but need not necessarily participate in the meetings.
3. The program area should obtain approval of the Negotiation Team from the Commissioner prior to beginning any negotiations. Contact Purchasing for a sample letter for transmitting to the Commissioner's office.
4. Negotiations can be conducted with one or more companies in one of two ways depending upon the Invitation to Negotiate. (1) concurrently – meeting individually with each vendor, or (2) serially - meeting with the first ranked vendor, and if no is agreement reached, moving on to the second ranked vendor. Serial negotiations may be more appropriate if there is a large gap in the price between vendors.
5. Negotiation team members should be prepared to discuss prices in relation to proposed services to ensure the Department will receive the best value.
6. In the negotiation process, encourage revision of requirements and replies as best meets the needs of the state and the capabilities of the vendors, keep communications open and document in writing any changes or alternatives. Since the process of involving two or more vendors is competitive, each will in effect assist you in evaluating the other's claims, objections, suggestions and prices.
7. Get the "Best and Final Offer" (BAFO) in writing and provide to all Team members. If there are no clarifying questions from Team, schedule an Intent to Award meeting. This is a public meeting.
8. The Negotiation Team shall select the best offer that provides the best value to the state.
9. Once the Contract Vendor has been selected the Negotiation Team Chairperson must notify the Purchasing Office in writing with the Team's recommendation. This recommendation must be accompanied by an explanation of why the vendor was chosen.
10. Once the Contract Vendor has been selected, the Purchasing Office will post the decision to allow a point of entry for protest.

# Contract Development

# Contract Development

Issuing a clear and complete agreement is a critical component of the contract process. The quality of the agreement can determine whether the agency will maintain control over the project. Additionally, issuing an explicit and comprehensive agreement is necessary because the quality of the agreement will have a direct effect on the payment process, the monitoring process, and the overall success of the project.

Each contract will contain at a minimum the following documents:

- State Term or Non State Term Contract
- Attachment A: Detailed Description of Performance Duties
- Attachment B: Payment Schedule
- Attachment C: Standard Terms and Conditions

Additional attachments may need to be included in the contract depending on the method of procurement or the applicability.

## A. Web Site for Forms

The contract forms and documents are housed on the DocuShare site that is accessible to all agency personnel regardless of location.

The web site link is shown below. When a form is accessed, you will have the capability to copy and save the form to your computer and/or to print the form. Text boxes and drop down boxes have been included for your convenience in completing the forms electronically. You may access the forms in two ways:

From **FLDOE's** home page click on the **Contracts, Grants and Procurement** tab on the left hand side which will take you to the Bureau's page. On the Bureau page click on the **Contract and Leasing** tab on the left hand side. On our office page click on **Contract Forms**.

or

Type in <http://info.fldoe.org/docushare/dsweb/view/Collection-142>

Click on Contract Documents and/or Contract Type Title

This will bring you to the main documents page where you can select and download the contract documents that you need.

**NOTE: No changes should be made to the standard format or language included in the standard templates without the express permission of the Department's Contract Administrator.**

**A WORD OF CAUTION:** Some of these forms contain macros. When you try to open them, you will get a warning message telling you that you are opening a document that has macros. You will have three options: "Disable Macros", "Enable Macros", or "Do Not Open". **ALWAYS CLICK ON "ENABLE MACROS", AND SET SECURITY LEVEL TO "MEDIUM" OR YOU WILL NOT BE ABLE TO USE THE DOCUMENT.**



## B. Components of a Contract

### State Term or Non State Term Contract Document (OCG-CM 06 & OCG-CM 07)

The State Term **(Appendix C)** and the Non State Term Contract **(Appendix D)** documents (Contract) contain general information about the contract. The Contract document provides important information such as:

- The name and address of the vendor the department is contracting with
- A brief summary of the purpose of the project
- A listing of the documents included in the contract (attachments)
- The names and contact information for the department's and the vendor's contract managers
- The start and end dates for the contract
- Specifications for contract renewal
- Etc.

The State Term Contract document should be used when the services have been procured from a State Term Contract.

The Non-State Term Contract document should be used when the services have been procured using any other method of procurement.

### ATTACHMENT A: DETAILED DESCRIPTION OF PERFORMANCE DUTIES

The Attachment A document **(Appendix E)** provides the detailed information concerning:

- Program background
- Scope of Work
- Governing state and federal statutes
- Performance Measures
- The role of the department and the vendor in the project outcomes
- Project phases
- Detailed deliverables - includes
  - Associated tasks
  - Minimum level of service
  - Documentation/criteria used as evidence completion
- Financial consequences
- Etc.

**Program Background** for the contract should provide information about:

- The history of the project
- The need for the services
- Demonstrate how the services relate to the program goals and mission

**Governing state and federal** statutes are included in the contract to notify the vendor of any special requirements, laws, rules and regulations that must be adhered to during the performance of the services under the contract.

**The Scope of Work** for the contract should:

- ✓ Be specific
- ✓ Be clearly established
- ✓ Be directly related to the goals and objectives of the program
- ✓ Include:
  - All of the activities and services that the provider is to perform
  - All of the products the provider is to furnish
  - Minimum performance standards such as staffing levels, minimum qualifications for staff, number of clients served, etc.

**Developing Performance Measures** will be an important aspect in completing the Attachment A since the performance measures provide a framework for the relationship between the needs of the department and its clients and the goals and results to be achieved through the contract.

A very important part of the contract process is to develop meaningful performance measures to insure that services are being performed timely and that the department is getting what it is paying for from vendors.

For those divisions that provide services to the public, performance measures will help to insure that the clients are being provided services that meet best quality standards. Developing performance measures are discussed in detail in **Section C of this chapter**.

**The role of the Department and the Vendor in the project outcomes:** This section specifies the expectations and responsibilities of the department and the vendor under the contract in achieving the performance outcomes.

**Deliverables** should:

- ✓ be directly related to the scope of work
- ✓ be used to measure the provider's progress
- ✓ be specific and verifiable
- ✓ document every event that will trigger a payment
- ✓ be a necessary part of the provider's performance
- ✓ be identified in the agreement along with a description of what constitutes successful performance of the event
- ✓ identify all task that must be performed to complete each deliverable
- ✓ identify documentation that will be used to evidence successful completion
- ✓ include minimum performance standards

## **ATTACHMENT B: PAYMENT TERMS AND SCHEDULE**

The Attachment B document (Appendix F) contains information describing the method and frequency of payment to be used for the contract. There are six Methods of Payment in use by the department identified on the Contract Approval Form (CM 01):

- Fixed Rate – Specified unit and rate (may be multiple units and rates) – the contractor is paid a pre-determined price for each unit. A unit of service may be based on time, tasks, activities, contacts or any combination thereof.
- Lump Sum – In a lump sum payment, the total contract price is determined up front and paid upon completion of the total service requirements of the contract. A lump sum payment method would be most appropriate when contracting for a service with a short contract term where the services are provided in a very short timeframe and/or where there is one deliverable, such as a report.
- Cost Reimbursement – This payment method is utilized when it is desired to exercise some degree of control regarding the contractors' costs incurred in delivering the contracted service. The contractor will be required to include a detailed budget of those line items identified/approved as allowable under the terms of the contract, the budgeted dollar amount for each line item, and a budget narrative. The contractor will be reimbursed for actual, allowable expenditures that are made within the limits of the approved budget. The contractor will have to submit periodic invoices which clearly identify these expenditures in accordance with the line items in the approved budget. Additionally, the expenditures reported on the invoice must be supported with documentation which is required to accompany each invoice.
- Cost Plus – Any combination of the above
- Advance Funded – It is possible, under certain circumstances, to make a portion of the contract funds available to a provider prior to the delivery of services and/or expenditure of funds by the provider. This may be used: (1) when the specific funding source or program is authorized by the state's Appropriations Act in a "grants-in-aid" category, or (2) if the Department of Financial Services approves the advance payment. Advances may be made only to not-for-profit corporations or governmental agencies; advances that are authorized in a "grants-in-aid" category may be made on a monthly basis up to the first three months of the contract and may not exceed the expected cash needs of the provider during the first three months. Detailed documentation justifying cash needs for advances (e.g., certified statement/work papers from provider analyzing the timing or projected expenditures versus available operating capital and anticipated revenues) must be maintained in the contract manager's file.
- Performance Based – Payment based on specific performance measures and standards in the contract that the contractor must meet.

## **ATTACHMENT C: STANDARD TERMS AND CONDITIONS**

The Attachment C document (**Appendix G**) contains all of the standard terms and conditions for the contract. This document at a minimum must meet state statutory requirements applicable to contracting in general in regards to content. It is a mandatory requirement. Modifications to this document are not permitted. If there is a question or need to modify the standard terms and conditions, the Contract Manager should contact the General Counsel and the Contract Administration office.

The Division of Vocational Rehabilitation (**Appendix H**) and the Division of Blind Services (**Appendix I**) have their own unique standard terms and conditions which are required to meet state as well as federal requirements and applicable to contracting in general.

## **ATTACHMENT D: SINGLE AUDIT ACT REQUIREMENTS**

Contract manager must determine if the contractor is either a vendor or recipient/sub-recipient. If the funding source is Federal or Federal matching then the “Vendor/Subrecipient Determination for Federally Funded Contracts” will be completed. If the funding source is State then the “Florida Single Audit Act Checklist for Non-State Organizations Recipient/Subrecipient vs. Vendor Determination” form will be completed (Appendix X). The appropriate form must be included all contracts.

A recipient/subrecipient relationship will require Attachment D be included in the contract. This document (**Appendix J**) outlines state and federal audit requirements under the Florida Single Audit Act and the Federal Single Audit Act.

The Monitoring Unit can provide assistance in making the determination if this attachment is applicable to the contract.

## **ATTACHMENT E: MINORITY SUBCONTRACTORS UTILIZATION SUMMARY**

The Attachment E document (**Appendix K**) is required to be included in each contract unless it meets one of the following exceptions:

- The vendor is a minority vendor
- The contract is with another state agency or state university
- Vendor certifies that none of the services will be subcontracted

This attachment contains reporting requirements pertaining to the Vendor’s use of Minority or Certified Minority businesses as subvendors to perform services related to the contract. The Department uses this information to assess and evaluate its Minority Business Utilization Plan.

## **OTHER ATTACHMENTS:**

- Copies of the solicitation document (ITB, RFP, ITN)
- Copies of the vendor’s proposal
- Questions and answers related to the solicitation
- Addenda to the solicitation
- Copies of budgets and budget narratives for cost reimbursement contracts
- Any other document being incorporated as part of the contract



**Other Documentation:** The following documentation must be included in the contract package when it is routed for review and approval:

- Attestation of No Conflict of Interest (**Appendix L**)
- Disclosure Statement (**Appendix M**)
- Risk Assessment Weight Table (**Appendix P**)
- Performance Bond Waiver (**Appendix N**, if appropriate)
- Specific Appropriations page from General Appropriations Act

## C. Developing Performance Measures

This training will provide a framework for the relationship between the needs of the department and its clients, and the goals and results to be achieved through the contract. A clear understanding of these concepts is necessary to effectively complete the negotiations with vendors and ensure that the department is obtaining the services it desires. The written performance measures in a contract will be the primary basis for monitoring the Vendor and the contract performance.

### Why this Training is Important

For each step in contract management, you must know what you want to achieve. It is critical to the success of any contract that you make clear in the solicitation document and the contract what the vendor will do or achieve to meet the specific need(s) for which the contract exists. It is through the performance measures that we establish the expectations we have of the Vendors.



### Chapter 216.023, Florida Statutes

Requires agencies to provide output measures, outcome measures, and baseline data on these measures for each of their programs. The law provides direction to state agencies for:

- (1) Submittal of agency program lists and performance measures
- (2) The agency schedule for implementation
- (3) The development of agency legislative budget requests
- (4) Key terms used in performance budgeting
- (5) A description of incentives and disincentives for agencies

## PERFORMANCE MEASURES: KEY TERMS

<b>Baseline Data</b>	Historical information which indicates a vendor's prior performance level
<b>Benchmark</b>	Data against which performance can be compared. May be performance data from other similar entities or from the past performance of the vendor
<b>Goals</b>	General abstract statements about desired program direction <b>Change goals:</b> focus on program outcomes <b>Service goals:</b> focus on program process
<b>Input Measure</b>	The resources used by the agency to produce goods or services, i.e. personnel, equipment, and funds. The level of demand for services may also be considered input.
<b>Outcome</b>	The extent to which a program or vendor meets its goals or impact or public benefit of program or vendor's performance under a contract.
<b>Outcome Measure</b>	Statement that describes the criterion by which Outcome will be judged to have achieved its goals. An indicator of the actual impact or public benefit of a program (i.e., benefits from a vendor's action; the results the program hopes to achieve; the benefits for participants during or after the program. <b>Short Term:</b> results expected when the contract/program ends <b>Long Term:</b> results expected post contract/program
<b>Output</b>	Goods or services produced by the program or Vendor.
<b>Output Measure</b>	Statement that describes the products of the program/vendor (i.e., number of goods or services produced; products of a program's activities; measures of activity that can be counted or measured such as participants served, type of service received, brochures distributed, etc.)

**Performance Measure**

A quantitative or qualitative indicator used to assess vendor performance that specifies the level of accomplishment of an outcome or output measure.

**Performance Measure Definition**

A description of a performance measure that includes (1) what the measure is intended to indicate and why this is significant, (2) where the data comes from and how it is collected, (3) how the measure is calculated, (4) any limitations about the data, and (5) whether the data is cumulative or non-cumulative.

**SMART**

An acronym which stands for the five characteristics of a good performance measure; **S**pecific, **M**easurable, **A**chievable, **R**esults-Oriented and **T**imely.

**Standard**

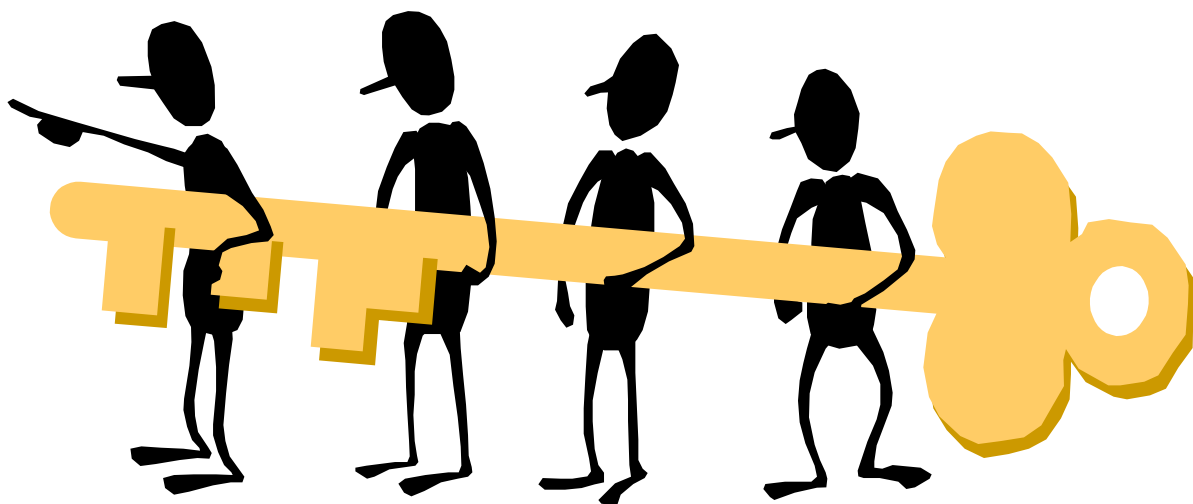
Level of performance set by the agency for each program performance measure.

**Strategy**

A method by which a vendor seeks to accomplish its goals and objectives.

**Target**

An expected level of performance established for a particular performance measure.



## WHAT IS PERFORMANCE MEASUREMENT?

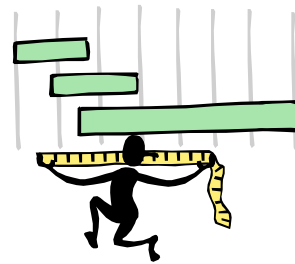
Performance measurement is a systematic tracking, analysis and reporting of the vendor's delivery of service to the department and its clients. The measurement of performance helps us determine the degree to which our programs and services deliver desired results. The performance measurement process is the department's method of determining the benefits the department and its clients have gained from a vendor/program.

**Establishing the needs of the department and its clients help us determine:**

- the purpose/goal of a contract,
- the vendor's activities under the contract,
- the level of performance that is desired; and,
- the extent to which the vendor should perform.

**Performance measures let us know:**

- how well we are doing,
- if we are meeting our goal,
- if our clients are satisfied; and,
- provide us with information to make improvements.



## QUALITIES OF PERFORMANCE MEASURES

**Measures should focus on key processes.**

Each measure should be central to the success of the process that is measured. The following questions may assist in determining the ultimate use for the measures:

- What are the most direct effects of each strategy on the department's customers/ consumers?
- What information does the department need to track movement toward key goals and objectives?
- What performance measures best reflect the expenditures of the department's/program budget?
- Do these performance measures clearly relate to the department's/program's mission, goals, objectives, and strategies?

**Good performance measures should be:**

- Responsive: reflects changes in level of performance.
- Valid: captures the information intended.
- Cost-effective: justifies the cost of collecting and retaining data.
- Comprehensive Coverage: incorporates significant aspects of the Vendor's main functions.
- Relevant: logically and directly relates to program/contract goals, objectives, strategies, and functions.

## USING PERFORMANCE PROJECTIONS

One method of measuring performance is based on performance projections. These projections should be challenging but achievable. Good projections are important tools to improve and test performance. They can also be used as a guidepost to assess whether programs are achieving desired results on schedule and at appropriate levels. It is important to realize that over-achievement of targets may be as problematic as under-achievement.

For the best possible performance projection, a combination of methods listed below or other effective techniques should be used.

### Performance Projection Methods to Consider:

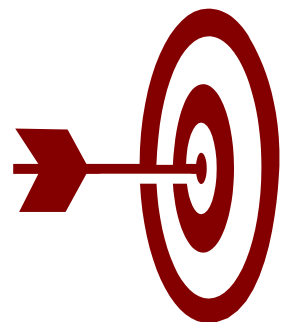
- **Baseline Data:** If past data exists, baseline data can be used for predicting future levels of service under conditions similar to the past. Often baseline data is needed when using methods of projecting performance that include adding an estimated increase in service to a current or past level of service.
- **Internal/External Assessment:** This assessment process is required during the strategic planning phase. Factors to consider would include department priorities, available resources, and efficiencies gained from improved procedures and new technologies.
- **National/State Data:** Data from other programs within and outside the state can provide additional data that has been validated by credible sources. Be careful to verify that the comparisons are valid.
- **Benchmarking Against Best Practices:** Information from within the state or other states with similar programs or services that have been successful may provide recorded performance information.
- **Sampling or Piloting Performance:** This may be an appropriate method for estimating performance for new programs or services.

## TARGET SETTING

Outcome measures must be measurable. If a measure is not quantifiable, it is not useful to the contract manager when they determine if the terms of the contract have been met. Therefore, numerical targets are utilized. During its first experience with outcome measurement, a program/vendor may have little basis for setting targets. The contract manager should consider a number of questions in order to set a target.

### Some questions to ask when considering targets are:

1. Are specific achievements already mandated? Programs and state governing bodies may have predetermined targets that must be passed on to vendors.
2. What is the current performance target or standard?
3. Is the vendor already rendering similar services to another agency or to the department, and, if so, what is their level of performance?
4. What are other, similar programs, achieving?
5. What reasonable improvements are possible?
6. What factors may influence the target?
7. How are other states or agencies performing on the same measure?

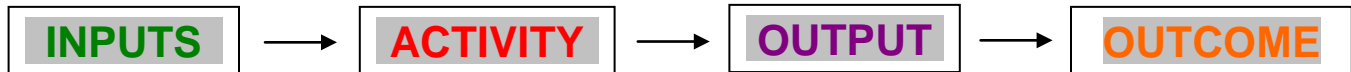


# OUTCOME MODEL FOR DEVELOPING PERFORMANCE MEASURES

Each measure should be directly related to the results that are desired. Therefore, the all-important first step is considering and understanding what GOAL is truly desired.

- The ultimate goal is the department's mission
- Through achieving the contract goals, you impact the achievement of the program mission
- Through achieving the program mission, you impact the achievement of the department's mission

It is important to remember that each part of the Outcome Model drives the next part, which ultimately will result in an outcome.



## INPUTS

Inputs are resources that the Vendor/program consumes to produce services

- Funding
- Employee hours worked
- Operating expenditures
- Equipment and facilities

## ACTIVITIES

Activities are what the program does with its inputs to fulfill its goals. Activities are in terms of verbs or action words. They are the services the program/vendor delivers. An example would be:

- Evaluate policies and procedures related to lung screening
- Assess the effectiveness of those policies and procedures in reducing lung cancer morbidity and mortality in five selected counties

## OUTPUTS

Outputs are the goods or services produced by the vendor/program. Outputs are the direct drivers of outcomes. You cannot have an outcome without having an output. Outputs are usually associated with the volume of work produced. Outputs are a type of performance measure:

- Number of written documents produced. (One draft report and one final report will be provided.)
- Number of measures reviewed for accuracy and reliability. (Of the 25 selected points for review, 80% (20) will have data validity and reliability documented.)
- Number of cases and follow-ups conducted. (250 client cases will be reviewed and follow-up studies conducted - 50 from each district.)

## OUTCOMES

Outcomes indicate the EXTENT to which a program or vendor meets its goals. The outcomes represent the results of the program/vendor. What is the impact of the program / vendor? Outcomes can be represented by percentages, averages, and ratios. Outcomes are a type of performance measure:

- 80% of clients completing the program will become gainfully employed and remain so for at least 5 months after completing the program.

## OUTPUT VS OUTCOME

Both outputs and outcomes are performance measures. Many people have difficulty understanding the difference between outputs and outcomes. This example may help you understand.

### OUTPUT MEASURE:

The number of patients treated and discharged from a state mental hospital.

### OUTCOME MEASURE:

Percent of discharged patients capable of living independently.

Outcome measures can be directed toward: Effectiveness, Efficiency, Quality, Timeliness, Productivity, and Safety. When deciding what the outcome measure will be directed toward, choose what will best communicate the value of the program. You should select the outcome measures that will provide the best indication of the impact of the program.

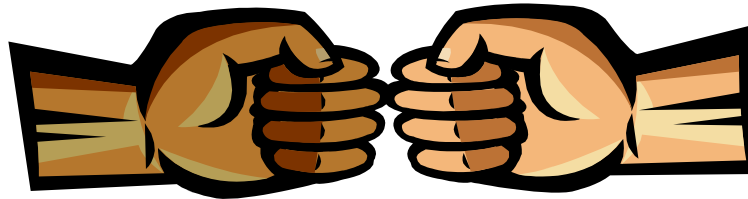
**EXAMPLE:** · Improved Conditions · Modified Behavior · Change in Values/Attitudes · Increased Skill · New Knowledge

### PRACTICE

Match the example with the concepts listed below.

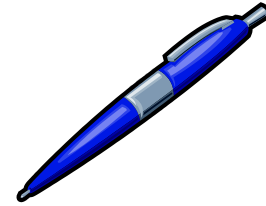


- |               |   |
|---------------|---|
| 1. Input      | a. 75% of the clients enrolled in the employment program will achieve permanent employment. |
| 2. Activities | b. 25 clients will be enrolled and complete the program.                                    |
| 3. Output     | c. Funding  |
| 4. Outcome    | d. Evaluate clients progress and report on a monthly basis.                                 |



## WRITING PERFORMANCE MEASURES

More than one person should be involved in writing a performance measure. You should start by getting input from the vendor, program staff, the Legislature, and the department's clients. When writing a performance measure ask the following question:



“Using only the performance measures in the contract could you conclude the vendor is doing a good job?”

**A good measure will always reflect the following five characteristics:**

**Specific** - the measure is concrete and means the same thing to everyone who reads it. *Will the measure be understood by those who are unfamiliar with the subject?*

**Measurable** - It must be quantifiable: *It should be reliable by measuring the same thing when data is collected at different times by different people. It should be valid by measuring the service or concept intended.*

**Attainable** - Targets should be realistic, either based on similar programs or previous experience: *It must be feasible for the Vendor to attain the target.*

**Results Oriented** - Focus is on the outcome for the Department/client, not the internal processes of the Vendor: *A desired change should have occurred for the client.*

**Timely** - The completion date should be reasonably accomplished during the life of the contract: *It should be noted than some outcomes are measured after the life of the contract.*

If it is easier for you to remember, the first letter of each of these words spells a useful acronym:

**S M A R T**

## PRACTICAL APPLICATION OF CONCEPTS

Once you have identified your outputs and outcomes, it is simply a matter of putting this information in writing in your contract document, which becomes a measure of the vendors' performance and the department's expectations of the vendor.

**Scenario:** The department is contracting with a vendor to provide supported employment services for clients of the Department's Vocational Rehabilitation Program. The objective of the program through the contract is to provide services that offer a system of support that assists clients in preparing for employment opportunities, obtaining or regaining meaningful employment and then maintaining employment. This program is expected to serve approximately 25 Vocational Rehabilitation Clients with a success rate of 65% of those clients enrolled in the program obtaining and maintaining gainful employment.

### Example of Contract Performance Measure:

The vendor will provide the following services for 25 VR clients (Outputs).

- Job development and training (Activity)
- Job placement (Activity)
- Social skills training (Activity)

The status of each client enrolled in the program will be reported to the department on a monthly basis (Activity & Outputs). The outcome of these services will be a 65% success rate or better of those clients enrolled in the program obtaining and maintaining gainful employment for at least five (5) months after completion of the program (Outcome).



## EVALUATING PROPOSED MEASURES

These are critical factors to consider when assessing proposed measures:

- The measures should be credible and logically related to the program's/contract's primary purpose and goals.  
*The measures should be comprehensive and cover the breadth of the vendor's responsibilities, meaning all of the vendor's major functions should be covered by one or more performance measures.*
- Output measures should show a clear relationship to intended outcomes.  
*Measuring the program's outputs without linking them to the results the vendor is supposed to achieve will not describe the real results of public investment in government activities.*
- The outcome measures should assess whether the vendor is achieving its fundamental goals.  
*The Department needs information on whether its fundamental policy goals are being attained; recognizing that progress towards some goals may be indirect and slow.*
- The proposed measures should relate to the program's primary missions, goals, and objectives.
- The measures should not create perverse incentives for vendor staff.  
*Proposed measures that assess the number of services provided without also assessing the quality of the services creates an incentive for staff to meet the measure by increasing production at the expense of quality.*
- The measures should be useful for budgetary decisions.  
*Output measures should be responsive to budgetary changes such that they will indicate change in level of service or product if funding changes.*

**Remember** that measures are unlikely to be perfect the first time. It may take a while to get the measures right. Although performance measures may be difficult to develop, a commitment must be made to submit valid, reliable, and useful performance measures.



## D. RISK ASSESSMENT

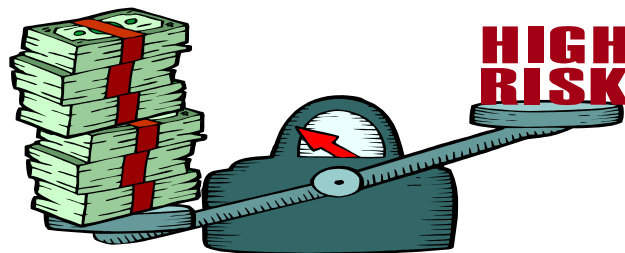
Contract Managers are required to complete a risk assessment for each contract prior to routing for review and approval and include the completed assessment table in the contract routing package. The Risk Assessment Definitions (**Appendix O**) and the Risk Assessment Weight Table (**Appendix P**) are designed to assist Contract Managers in this effort.

The risk assessment process will be used to rank each provider according to the level of risk the department assumes, i.e., **Low, Medium or High**. Consistent and uniform risk assessment will permit the department to apply its contract monitoring resources systematically to the areas of greatest need and will help ensure that the department is protected, and where applicable, protect client safety and health.

Risk is defined as the probability of adverse actions, such as audit findings, legal actions, and media risks. Risk assessment is used to identify, measure, and prioritize risks so that the greatest effort is used to address the auditable areas of greatest significance.

The criteria to be used to ascertain the level of risk is shown below:

- **Department Priority** – Directly related to the department or division mission, or supports established departmental mission statements.
- **Dollar value of the contract** – The higher the contract dollar figure, the higher the risk the department assumes in contracting with a provider.
- **The nature of the services** – Weights are assigned to the type of service depending upon the complexity and the critical nature of each service category.
- **Current Monitoring Plan** – A contract's performance that is independently monitored will have a lower risk level than those not monitored.
- **Provider History** – Providers who have previously had serious performance problems are a higher risk than those with minor corrective actions.
- **New provider** – A higher risk occurs when the department has no contracting history with a provider or where a provider has made changes in its key executives (e.g., executive director, financial manager) within the past year.



## E. CONTRACT ROUTING PROCESS

Contracts and contract related documents must be routed through the department for review and approval by appropriate management. Contract reviews should be accomplished in consecutive order, never concurrently, so that each reviewer can be assured that required reviews have been accomplished prior to their review. If an expedited review is needed, then a note on the Contract Summary/Review Slip to that effect may be helpful. The note should include the Contract Managers number so that reviewers can call to have the contract package picked up and hand carried to the next review level. **Note: Contracts should be routed in a folder, a pocket folder is preferable.**

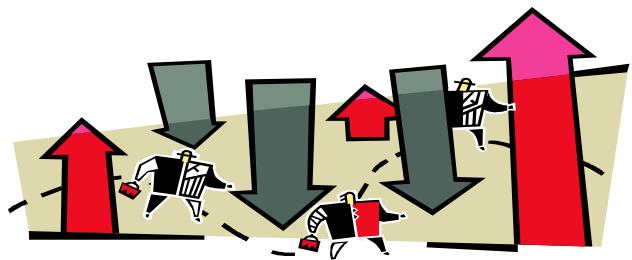
### Contract Approval Form: (Appendix A)

The Contract Approval form is required to be included in every contract routing package. This form is used to obtain the necessary approvals from department management during the review/routing process. This form also provides important information for reviewers during the review/routing process and department staff who perform contract related activities once the contract has been executed. Contract Managers are required to insure that all of the necessary information is completed on the approval form. For answers to questions about the approval form contact Contract Administration or your division's contract liaison.

**Note: This form should be the first form in the package layered on top of the included contract documents.**

**Contract Summary/Review Form: (Appendix B)** The Contract Summary/Review Form should be fully completed with the required information. This form should include:

- The Name and Title of the Contract Manager
- Contract Manager's phone number
- Contract Managers Division and Bureau
- The type of item being routed, i.e., original contract, contract renewal, amendment, etc.
- Contract Number
- Contractor Name
- Contract/Amendment/Renewal/Extension amount
- Need by date (Mandatory deadline to have all approvals completed so that the contract/amendment/renewal/extension can be executed and the contract in place on or before the start date of the contract)
- Purpose of Contract and Summary of Services (Description of the purpose of the contract and the services that are being provided)
- Special Instructions: Any special instructions or comments



## Contract Routing Package:

The contract routing package should include the following:

- Contract Approval Form
- Contract Summary/Review form
- Contract and all attachments
- Any additional required documentation

All DOE contracts with the exception of the Division of Blind Services and the Division of Vocational Rehabilitation contracts, once executed, will be scanned and stored on the (K:) drive. All department employees have access and will need to print their own copies.

## Contract Routing Process

A routing process flow chart is included as **(Appendix R)** to the manual.

Each contract manager should schedule a pre-consultation conference with the Contract Administrator after the first draft has been developed. The Contract Administrator will review and provide input after which the contract manager will finalize the contract and schedule a second review with the Contract Administrator who will then sign the Contract Approval Form.

Following the second review and sign off by the Contract Administrator, the Contract Manager is responsible for obtaining the approval of the Program Director, Budget office, Comptroller's office (contract section and audit section only if the Florida or Federal Single Audit Act applies), General Counsel, and the Chief Technology Officer, if applicable.

The responsibilities of those approving the contract are outlined below:

- a. Program Director – The program director will: (1) review the scope of services and deliverables to insure that they are complete and that the contract is designed to accomplish the program area's mission; (2) review the amount of funding and fund source; (3) check to make sure that the project manager is appropriate; (4) review and note any issues out of the norm, and make sure the contract manager corrects any problems identified by the program director prior to moving on for approval.
- b. Budget Officer – This individual will review the contract to make sure that: (1) there is available budget authority; (2) the payment coding is appropriate and correct; (3) that all budget information is completed in the contract document and supporting attachments.
- c. Chief Technology Officer – The Chief Technology Officer must approve all technology contracts.
- d. Office of the Comptroller – The Contract Section will review all fiscal information contained in Section 13 of the Contract Approval Form to insure that it is accurate.
- e. Audit Resolution and Monitoring - The Audit Section will review the contract only if it relates to the Florida and/or Federal Single Audit Act.

- f. Office of the General Counsel – Examines for form and legality; reviews for sufficiency of disclosure statement; completes a general review of the content.
- g. Contract Administrator - When the contract and supporting documents are initially received, the Contract Administrator will review to insure that: (1) the Contract Approval Form is attached and completed properly; (2) depending on the method of procurement, the appropriate contract document has been completed properly; (3) the payment schedules total the contract amount; (4) the method of procurement is in accordance with the contract; and, (5) the required attachments are included and have been properly completed and labeled.
- h. Contract Manager – The Contract Manager will secure signature of contractor – Be sure the contractor's signature is on both the original and the duplicate original as well as on the Disclosure Statement (FA-4a). Following this approval, the Contract Manager will hand carry the contract and related documents to the Contract Administrator who will obtain the signature of the Deputy Commissioner for Finance and Operations and the Commissioner.
- i. Deputy Commissioner for Finance and Operations/Commissioner – The Contract Administrator will hand carry the contract and related documents to the Assistant Deputy Commissioner of Finance and Operations who will obtain the Deputy Commissioner's signature of Finance and Operations/Commissioner. After the Commissioner or his designee has approved the contract, the Contract office will make the appropriate number of copies and transmit to the Contractor and identified offices within the department.
- The DOE Comptroller's office will encumber the funds and make payments as invoiced by the contractor and approved by the Contract Manager. The Contract Manager must complete a Contract Summary Form and submit it to the Comptroller's Office.



**Notes:**

- **Contract Managers or their designees** are responsible for coordinating with and obtaining the approvals of the following individuals/offices: Program Director, Budget office, General Counsel's office, Comptroller's office (Audit {if applicable} and Fiscal), Information Technology Officer (if applicable), Contract Administration and the Contractor.
- **Contract Administration** is responsible for coordinating with and obtaining the approvals and signatures of the following individuals: Deputy Commissioner for Finance and Operations and the Commissioner.

# **Contract Management And Monitoring**

# Contract Management and Monitoring

Once a contract has been executed it enters the last phase of the contract management system. During this phase of the contract management system, the contract manager manages the day to day activity on the contract, processes any necessary amendments, extensions or renewals for the contract, monitors the Vendor's performance, reviews and approves deliverables and invoices for payment and finally closes out the contract.

## A. CONTRACT AMENDMENTS, EXTENSIONS & RENEWALS

### CONTRACT AMENDMENTS

An amendment is required any time major revisions or substantial changes (e.g., new clauses, budget modifications, etc.) need to be made to the contract. This must be done by preparing an amendment document. The Department has a standard contract Amendment form (**Appendix S**) for this purpose, which provides sample language to guide Contract Managers in preparation of the amendment document.

#### Common Reasons for Amendments

- Additional funds are made available to procure additional services and the contract needs to be amended to include the additional funding and services.
  - For contracts procured under an Exemption, this may be accomplished through negotiating an amendment to an existing contract.
  - For contracts procured as a Single Source, the Contract Manager would need to seek additional approval if the amended contract amount would exceed the amount originally approved. Additional approval would also be necessary if there was a significant change in the scope of services.
  - In the case of competitively procured services, should the resulting contract be awarded to a current contract vendor, it may be possible to amend the existing contract to include the additional services and funds.
- To add additional or reduce the units of service and adjust funding in the contract due to unanticipated increases or decreases in usage
- Adjust deliverable dates in the contract
- Other substantive changes to the contract

#### The General Process for Contract Amendments would be as follows:

- Contract amendments must be prepared using the department Amendment form, which provides sample language and general formatting guidelines. The document can be downloaded from the Contract Administration Website
- <http://info.fldoe.org/docushare/dsweb/view/Collection-142> The amendment should cite the specific document, section, subparagraph, sentence, etc. of the contract that is being changed.
- The amendment language should indicate whether the information in the contract is being amended, replaced, deleted, deleted and replaced etc.

- The amendment must be routed through the department using the same review and approval process as the original contract and as outlined in Chapter 4, Section E. of this manual.
- A copy of the contract, or at a minimum, a copy of those sections being amended should be routed with the amendment for reference purposes. REMEMBER, not everyone who reviews your amendment has a copy of the contract.
- After all department reviews and approvals are complete, the amendment can be executed.
- The amendment should be sent to the vendor first for execution. After the vendor has signed the amendment, it should be returned to the Contract Administration office that will coordinate getting the amendment signed by the Commissioner.

### Minor Modifications to the Contract

Sometimes a contract may require only minor modifications to the contract. Changes to a contract that qualify as a minor modification are limited to Contract Manager changes, Contract Manager address or telephone number changes. Minor modifications can be accomplished as follows:

- The Contract Manager will prepare a letter of notification to the vendor of the minor change. A sample Minor Modifications Letter (**Appendix T**) may be downloaded from the Contract Administration Website. <http://info.fldoe.org/docushare/dsweb/view/Collection-142>
- The Contract Manager should cc: Contract Administration on the letter and forward one copy to Contract Administration and one copy to the DOE Comptroller.
- The Contract Manager should maintain one copy in the Contract Manager's file.
- The original letter should be mailed to the vendor.

Any questions regarding minor vs. changes requiring an amendment, should be directed to Contract Administration.

### Amendment Considerations

- A contract cannot be amended retroactively
- A contract that has expired cannot be amended
- When amending one section of the contract or attachments, be sure to review the contract and attachments to insure that any other affected areas are included in the amendment



## CONTRACT RENEWALS

Renewal means contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal, 287.012 Florida Statutes. If renewal language is in the original contract/bid/proposal, the contract manager may renew the original contract under the same terms, conditions, and price as the original contract by simply executing a renewal.

This must be done by preparing a renewal letter (**Appendix V**). The department has a standard Contract Renewal Letter for this purpose.

The Contract Manager may as a preliminary step send a letter to the vendor prior to executing the Renewal Letter to confirm the vendor's desire to renew the contract. The Renewal Confirmation Letter (**Appendix U**) should be sent prior to routing the Renewal Letter for approval through the department. Once signed, this letter provides documentation of the Vendor's intent towards renewal.

### Department's Policy on Contract Renewals

287.057 (13) of the Florida Statutes: Contracts for commodities or contractual services may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer. Renewal of a contract for commodities or contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. If the commodity or contractual service is purchased as a result of the solicitation of bids, proposals, or replies, the price of the commodity or contractual service to be renewed shall be specified in the bid, proposal, or reply. A renewal contract may not include any compensation for costs associated with the renewal. Renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to s. 287.057(3)(a) and (c) F.S. may not be renewed.

### The General Process for Contract Renewal would be as follows:

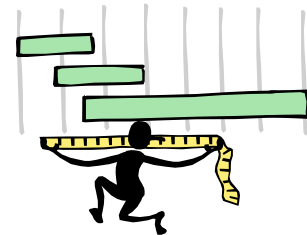
- A Contract Renewal form must be prepared by the Contract Manager. The renewal letter is available on the Contract Administration Website and may be downloaded from:  
<http://info.fldoe.org/docushare/dsweb/View/Collection-142>
- The renewal must be routed through the Department using the same review and approval process as the original contract and as outlined in Chapter 4, Section E. of this manual.
- A copy of the original contract and all attachments should be included in the routing package for reference purposes. REMEMBER, not everyone who reviews your renewal has a copy of the contract.
- After all reviews and approvals are complete, the renewal can be executed
- The renewal should be sent to the vendor to be executed first.
- After the vendor has signed the renewal, it should be returned to the Contract Administration office that will coordinate getting the renewal signed by the Commissioner.

## Renewal Considerations

- Contracts which are renewed maintain the same contract number as the original contract.
- Contracts cannot be renewed unless renewal language was included in the original contract or bid solicitation document.
- Competitively procured contracts may not be amended to include a provision for renewal.
- Contract renewals must be executed before or on the expiration date of the original contract or previous renewal.
- An expired contract cannot be renewed.
- Contracts procured as a Single Source, or under Certified Emergencies cannot be renewed.

## CONTRACT EXTENSIONS

Extension means an increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impractical or impossible, or which prevent a new contract from being executed, with or without a proportional increase in the total dollar amount, with any increase to be based on the method and rate previously established in the contract 287.012 (13) F.S.



This must be accomplished by preparing an Extension Letter (**Appendix W**). The department has a standard Extension Letter for this purpose.

### The General Process for Contract Extensions would be as follows:

- An Extension Letter is prepared using the standard Extension Letter format.
- The extension must be routed through the Department using the same review and approval process as the original contract and as outlined in Chapter 4, Section E. of this manual.
- A copy of the contract should be routed with the Extension Letter for reference purposes. REMEMBER, not everyone who reviews your Extension Letter has a copy of the contract.
- After all department reviews and approvals are complete, the extension can be executed.
- The Extension Letter should be sent to the vendor first for execution.
- After the vendor has signed the Extension Letter, it should be returned to the Contract Administration office which will coordinate getting the extension signed by the Commissioner.

## Extension Considerations

- Extension of a contract shall be in writing and for a period not to exceed six months.
- There shall be only one extension of a contract unless the failure to complete the contract is due to circumstances beyond the control of the contractor or in the case of a continuing emergency.
- Contract extensions must be executed before or on the expiration date of the original contract or previous renewal.
- A contract which has expired cannot be extended.

## B. INVOICE AND PAYMENT ISSUES

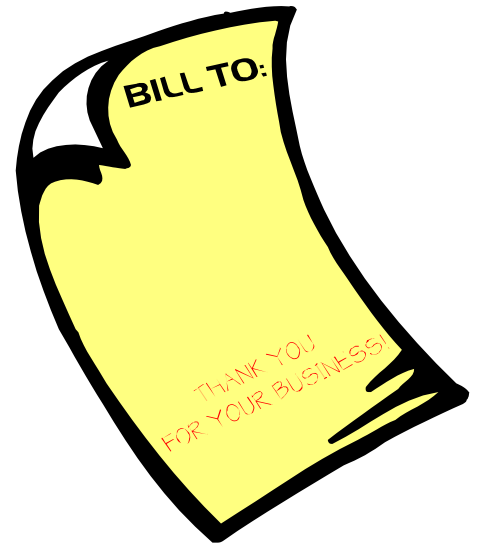
### The DOE Comptroller's Role

- Their ultimate goal in the contract process is to get the vendor paid.
- They audit payment requests to ensure compliance with all regulations. This includes 215.422, 287.058 and 112.061, Florida Statutes, Florida Administrative Code Rules 60A-1.002, all Comptroller's Memoranda and the contract itself.
- Maintain original documentation of all payments.
- Mail out warrants issued to the vendor/provider.

### Invoice Requirements

All Invoices Must:

- Be on the vendor's/provider's letterhead (not DOE's)
- Have an invoice number
- Have an invoice date
- Contain sufficient detail and backup documentation for an audit – this includes receipts and/or travel vouchers if applicable
- Reference a DOE contract number
- Be properly approved and signed by the Contract Manager
- Be sent to the DOE Comptroller no later than five working days following receipt of goods or services



### Prompt Payment Compliance

Statutorily we have:

- 20 calendar days to submit payment to DFS
- 10 calendar days for DFS to issue a warrant
- 3 working days to mail the warrant once it is received by Finance and Accounting
- After 40 calendar days (36 for medical services) interest begins to accrue
- Note – calendar days include weekends and holidays

### Advances

To reduce the time and cost required to process small routine monthly or quarterly payments on annual agreements which are \$1,800 or less, agencies are authorized to process annual advance payments on such agreements.

Pursuant to Section 215.422(14)F.S.

Advance payment may be made for maintenance agreements software license agreements, and subscriptions that meet one of the following criteria:

- Advance payment will result in a savings to the State that is equal to or greater than the amount the State would earn by investing the funds and paying in arrears.
- The goods or services are essential to the operation of a state agency and are available only if advance payment is made.
- Prior approval of the Bureau of Auditing is not required for advance payments made for

**maintenance agreements, software license agreements, and subscriptions** that are equal to or less than the threshold of Category Two as defined in s. 287.017, F.S., and meets one of the above criteria.

- Prior approval of the Bureau of Auditing is required for advance payments made for **maintenance agreements, software license agreements, and subscriptions** that exceed the threshold of Category Two as defined by s. 287.017, F.S. Requests for advance payment approval must include information indicating that the payment meets one of the above criteria and that the agency has complied with applicable procurement requirements.

Advance payment may be made for all other goods and services if approved in advance by the Bureau of Auditing. Criteria for approval includes:

- Advance payment will result in a savings to the State that is equal to or greater than the amount the State would earn by investing the funds and paying in arrears.
- The goods or services are essential to the operation of a state agency and are available only if advance payment is made.

Requests for advance payment approval must include information indicating that the payment meets one of the above criteria and that the agency has complied with applicable procurement requirements.

**Or**

Pursuant to Section 216.181(16)F.S.

Section 216.181(16), F.S., provides for advances for program startup or advances for contracted services to governmental entities and not-for-profit organizations. The amount that may be advanced shall not exceed the expected cash needs of the contractor or recipient within the initial three months. Thereafter, disbursements shall only be on a reimbursement basis. Advance payments may be made for cost-reimbursement and fixed-price contracts.

Agencies specifically authorized by the General Appropriations Act to make advance payments and wishing to advance beyond the initial three months expected cash needs must request a waiver from the Bureau of Auditing. The request for waiver must include:

1. The appropriation line item number.
2. Justification for advancing funds beyond the three months' expected cash needs.

## **C. CONTRACT MONITORING**

This section establishes the minimum contract monitoring requirements for all Florida Department of Education (FDOE) contract managers. The contract monitoring function protects the interests of all parties. FDOE contract managers will continuously monitor contract activities to ensure that time schedules are being met, projected work units by time periods are being accomplished and other

performance goals and objectives of the contract are being achieved. The review occurs for all components of the contracts as may be applicable.

## A. PURPOSE

The purpose of contract monitoring is to ensure that **both** the FDOE and the contractor are performing in accordance with the contract terms and conditions. The contract manager, however, through continuous monitoring may be able to identify any problems or potential problems that may deviate from the “scope of services” in the contract.

A contract manager’s monitoring activities are not and nor should they be considered as comprehensive evaluations or audits of the contractor’s abilities to perform the services or the financial stability.

The Office of Contracts, Grants and Procurement, Monitoring Section has the sole responsibility of risk analysis and discretion of performing due-diligence reviews of the contractor and its sub-contractors prior to and anytime during contract periods.

### OBJECTIVES

- Adequate planning of monitoring activities.
- Ensure monitoring tools and activities are appropriate for the nature of the services and contract.
- Verify contractor performance against contract requirements.
- Identify and document contractor’s performance strengths and weaknesses.
- Address corrective actions and follow-up timely and with the contractor.
- Monitor all aspects of the contract.
- Open communication with contractor regarding activities and concerns.
- Define universe of records to be examined and sampling methodologies.
- Reduce risk and loss to the FDOE and customer

## B. SUB-CONTRACTORS

The contract manager is **NOT** responsible for monitoring the relationship between the contractor and any of its sub-contractors. However, this does not preclude the contract manager from monitoring or ensuring that the primary contractor is performing his/her duties and responsibilities under the terms of the contract even if through sub-contractors. The contract manager has a responsibility to ask for documentation verifying that the contractor is monitoring or auditing its subcontractors to insure required performance and follow-up on any corrective actions that have been identified.

## C. PREPARING FOR CONTRACT MONITORING

Adequate preparation and planning for continuous contract monitoring will provide timely identification of contract deviations and expedite completion of the contract requirements. Each contract manager is responsible for planning contract monitoring activities with the contractor before examining records or visiting providers. Contract monitoring plans are dynamic and may be amended, as additional information becomes available. At all times, however, the monitoring plan should reflect a scope of review that is commensurate with the contractor’s risk level.

1. **Contract managers** should carefully review each contract for which they are responsible and develop an individual monitoring checklist for review and verification of contract requirements.

This checklist should include but is not limited to the following as may be applicable to the specific contract:

- ◆ Reports to be submitted and due dates.
  - ◆ Source documentation that will be used to verify services.
  - ◆ Interviews that may be conducted.
  - ◆ Schedule of deliverables and due dates.
  - ◆ Schedule of anticipated outcomes or projections of performance and cost.
  - ◆ Schedule of monitoring and/or on-site visits as well as a clear description of how these activities will be performed.
2. **The contract manager's supervisor** is responsible for reviewing monitoring activities of contracts assigned to each contract manager within the section, and will at a minimum:
- a. Track the progress and completion of the contract monitoring schedules of each contract.
  - b. Report delays or problems that have an impact on the completion of schedule contract to their supervisor.
  - c. Review contract monitoring plans with their supervisor and the Office of Contracts, Grants and Procurement, Monitoring Section.
  - d. As appropriate, periodically accompany contract managers on site-visits.

## D. FREQUENCY OF MONITORING

Each monitoring plan should include frequency of specified monitoring activities. Contracts should be monitored from the inception to the completion in accordance with the monitoring plan. If the risk analysis changes during the contract period, then the frequency of monitoring activities should change accordingly. Site visits should be planned at least quarterly for applicable contracts.



## E. GENERAL CATEGORIES OF MONITORING

Monitoring of contracts efforts fall into two general areas: programmatic and fiscal.

### 1. PROGRAMMATIC

Programmatic monitoring deals more specifically with compliance of program requirements and answers the question, **“Are we getting what we contracted for?”** Key questions to ask in programmatic monitoring:

- ? Has the provider adequately demonstrated the satisfactory delivery of services as required by the agreement?
- ? Were outcomes or goals identified in the agreement accomplished?
- ? Was information from reports verified against provider's source documents?
- ? Have all terms and conditions of the contract and attachments been met and maintained from one monitoring period to the next?
- ? Is there any indication that the contractor may not be able to fulfill remaining obligations?
- ? Is the contractor sub-contracting any or all of the work?

## 2. FISCAL

Fiscal monitoring answers the question “Did we get what we paid for?” Key objectives of financial monitoring:

- Determining if funds were properly accounted for.
- Determining that expenditures were made in accordance with applicable rules and regulations, were authorized by the agreement, were directly related to the project; and were properly supported by documentation.
- Verification that total payments were within the limits set by the agreement.

## F. **CONTRACT MONITORING METHODS AND ACTIVITIES**

The review and evaluation of the Provider's performance and compliance with the contract terms and conditions is considered “contract monitoring.” In general this function is accomplished by a combination of activities, tasks and methods to ensure that contractors are fulfilling contractual obligations. Monitoring techniques and timetables should be clearly defined and coordinated with the contractor in the monitoring plan.

### METHODS OF MONITORING

There are several methods of performing the actual monitoring activities or tasks and one or a combination of the recommended methods below can be used. See the Exhibits for samples of forms used.

- (a) **Joint Contract Monitoring.** The FDOE Contract Administration Office may recommend or the contract manager may seek assistance from other FDOE staff or stakeholders to assist in monitoring.
- (b) **Unscheduled Visits.** Contract managers may conduct unscheduled site visits with the approval of the responsible FDOE supervisor and FDOE Contract Administration Office Manager, if there is sufficient reason to believe that a problem exists or such a visit is warranted.

- (c) **Contractor Self-Evaluation Survey.** A contract manager may want to develop a self-evaluation for the contractors to complete on a regularly scheduled basis, prior to monitoring visits. The evaluation could be the document or checklist that the contract manager uses for monitoring.

## **G. MONITORING REPORTS**

The contract manager should document all monitoring activities and the outcomes. Periodically, a written report will be prepared and include at a minimum all of the below elements (see the Appendix for sample report format):

- Contractor name and address
- Contractor's contract manager
- Contract number
- FDOE Contract Manager
- Description of contract services
- Date and location of monitoring
- Results to date based on contract deliverables and monitoring activities
- Comments from the contractor
- Summary of contract compliance findings
- List of areas needing corrective action, reasons, and recommendations
- Comparison of actual outputs/outcomes to expected outputs/outcomes



### **1. CORRECTIVE ACTION**

- Contract managers will consult with their supervisors where corrective action is warranted.
- Contract managers will use professional judgment in determining need for management consultation on other matters prior to report distribution.

### **2. DISTRIBUTION OF REPORTS**

- The final written report will be distributed upon completion to the contract managers' supervisor, the contractor and the Contract Administration Office.

## **H. CORRECTIVE ACTION PLAN (CAP)**

Corrective action means any steps that must be taken by the contractor to correct identified deficiencies, produce recommended improvements, or demonstrate that deficiencies or findings are either invalid or do not warrant action. Corrective action is recommended when identified deficiencies are serious (for example, failure to ensure customer safety) or where less formal means have failed.

### **1. ADDRESSING DEFICIENCIES**

- (a) Document the deficiency and recommended corrective action in the monitoring report.
- (b) Notify the contractor both verbally and in writing that a problem has been identified **and** the expectation for correcting the problem or, if appropriate, ask the contractor to advise how the problem will be corrected.

- (c) Specify a date or time when the FDOE can expect the problem to be resolved or action taken. Or, if appropriate, instruct the contractor on the timeframe for implementing corrective action.
- (d) Document conversations with the contractor by a memo to the contract file and/or follow up with written letter to the contractor.

## 2. FOLLOW-UP

The contract manager should follow up with the contractor regularly to ensure that corrective actions are being met. The contract file should be documented as to the date follow-up took place, results and any further recommended actions.

If anytime the contract manager does not feel that the contractor is making sufficient progress in meeting corrective actions he/she should consult with their supervisor regarding the possibility of terminating the contract or invoking any financial sanctions that are permissible under the terms and conditions of the contract.

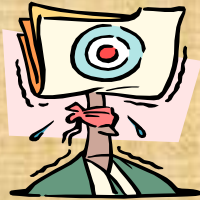
## 3. MAJOR OR POTENTIALLY CONTROVERSIAL DEFICIENCIES

Major or controversial deficiencies are subject to the contract manager's judgment and knowledge of the situation and or contractor. If the contract manager feels that the issue fits either major or controversial categories, they will consult with their supervisor who may then refer the concern to the FDOE General Counsel's Office or the Office of Contracts, Grants and Procurement/Monitoring Section.

**ARE YOU PREPARED FOR AN AUDIT?**

- Can you justify or explain your decisions with sound documentation?
- Did you develop a monitoring plan and follow it?
- Is your contract file in order?
- Did you document, document, document?
- Did you follow laws, policies, and procedures?
- Did you ask questions?

**IF YOU DON'T KNOW OR YOUR ANSWERS ARE NO – YOU'RE NOT READY!**



## Closing Out the Contract: Key Terms

**Breach of Contract** - a legal term that describes a condition that results from a failure of a party to a contract to abide by the material terms or conditions of a contract such that one party loses the value of its bargain with the other party.

**Contract Closeout** - the formal process or final steps to be taken upon completion or termination of a contract. This may include, but is not limited to, 1) processing final payment; 2) recovering all equipment purchased in accordance with the terms of the contract; 3) recovering any overpayment.

**Contract Default** - the failure of the vendor to perform or meet contract terms and conditions.

**Contract Expiration** - the normal end of a contract.

**Contract Termination** - bringing the contract to a close prior to its normal expiration date for whatever reason, at the request of the vendor, the department, or both.

**Extension** - an increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with or without a proportional increase in the total dollar amount, with any increase to be based on the method and rate previously established in the contract. Extension of contract shall be in writing for a period of not to exceed six (6) months and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the provider's control.

**Vendor** - an organization or individual providing contractual services or materials to the department in accordance with the terms of the contract.

**Renewal** - contracting for the same services with the same vendor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal. Except for emergency or single source procurements, a renewal may be used in any contract for services or commodities. A competitively bid contract cannot be renewed unless there was a renewal provision in the original solicitation document.

## Contract Closeout Process

### Making Contract Close Out Determinations

In order to choose the appropriate end for a contract you must determine whether the provider has met or will meet the contract terms. Therefore you must know the specific performance requirements and deliverables required in the contract. The reports you keep on contract performance evaluation help you at this stage of your contract management responsibilities. Upon conclusion of a contract you should not renew a contract with a provider who has not fully performed in accordance with the contract terms and conditions.

## Contract Endings

There are three major types of "endings" to a contract. Each calls for a different set of responsibilities and procedures. A contract ends in one of the following ways:

1. Renewal/Extension,
2. Contract expiration; or
3. Contract termination.

## Renewals & Extensions

Ask yourself the following questions to assist you in making the decision to renew/or extend:

- Do we wish to continue contracting with this vendor for another contract term/extension period? Refer to your evaluation of vendor's performance under the present contract thus far. Is the vendor performing the services satisfactory?
- Is a renewal clause in the original solicitation document and/or in the contract that allows you to renew this contract?
- Is there a programmatic need to continue the services?
- Is there funding available to renew/extend the contract?
- Have I involved key management in the decision to renew/extend, i.e., Contract Manager's supervisor, Deputy Commissioner, Contract Administration, General Counsel, Budget Director, etc.?
- Is the vendor willing to renew/extend the contract?

**Expiration:** Contract expiration, the natural end of a contract, occurs when the contract is completed on time. The duration of a contract is the length of time it is legally binding on both parties. It is specified in the standard contract document as "effective" and "ending" dates. In this situation:

- There is no immediate need for the service to be continued, or there is not funding to continue services.
- Both the department and the vendor are satisfied that the terms of the contract have been completed.
- The Contract Manager approves the final invoice for payment.
- The contract expires on its designated ending date.

## How to Handle Contract Expiration

- Check that the vendor has met the terms and conditions of the contract.
- The vendor must submit a final invoice for payment to the Contract Manager, usually within a specified number of days.
- Recover any overpayments. Determine the amount of overpayment with the help of your fiscal office and make sure that the responsibility for collection has been assigned.
- Approve the final invoice for payment when you are satisfied that all program and fiscal obligations have been met.
- Maintain the contract files in-house for no less than two (2) fiscal years after contract expiration/termination, at which point the files may be archived for an additional three (3) years [total of five (5) years retention)].

**Contract Termination:** Prior to taking any action to terminate a contract the Contract Manager should involve or obtain approval from:

- His or her supervisor
- Division Director
- The General Counsel's office
- Contract Administration
- Budget Director
- The DOE Comptroller's office



## Reasons to Terminate a Contract

Termination at Will: The contract may be terminated by either party upon no less than thirty (30) calendar days written notice, without cause, unless a lesser time is mutually agreed upon by both parties.

- The vendor or the department needs to end the contract for a compelling reason.
- This kind of termination is sometimes referred to as a termination for convenience.

Termination Due To Lack of Funds: In the event funds to finance this contract become unavailable, the department may terminate the contract upon no less than twenty-four (24) hours written notice to the vendor.

Termination for Breach: The vendor fails to perform under the terms and conditions of the contract. The failure of the vendor to perform any contractual obligations with the department in a manner satisfactory to the department will be a sufficient cause for termination. Unless the vendor's breach is waived by the department in writing, the department may, by written notice to the vendor, terminate the contract upon no less than twenty-four (24) hours written notice.

## How to Terminate a Contract

The Contract Manager should take the following steps to terminate the contract:

- Prepare a letter to the vendor stating the reason for and the date of the termination as well as the contract number.
- Verify that the letter agrees with the time frames specified in the applicable termination clause in the contract.
- Submit the letter for the signature of the authorized department contract signer.
- Mail the letter via certified mail with return receipt and proof of delivery to the vendor's contact as listed in the contract.
- Mail the letter via certified mail with return receipt and proof of delivery to the vendor's board of directors or owners.
- Place a copy of the termination letter in the Contract Manager's file.

- Send copies of the letter to department management as appropriate; Legal Counsel, DOE Comptroller and Contract Administration at a minimum.
- Check that the vendor has met the terms and conditions of the contract up to that point of termination.
- The vendor must submit a final invoice for payment to the Contract Manager, usually within a specified number of days.
- Recover any overpayments. Determine the amount of overpayment with the help of your fiscal office and make sure that the responsibility for collection has been assigned.
- Approve the final invoice for payment when you are satisfied that all program and fiscal obligations have been met.
- Maintain the contract files in-house for no less than five (5) years after contract expiration/termination.

## **D. UNDERSTANDING THE IMPORTANCE OF MAINTAINING A GOOD RELATIONSHIP WITH VENDORS/PROVIDERS**

A good contract manager/vendor/provider relationship will add greatly to the chances of success of your contract and to your personal satisfaction as contract manager. To develop and maintain a good working relationship with the vendor/provider you will:

- Enforce the contract terms and conditions by talking to and visiting the vendor/provider periodically. This will keep you abreast of the vendor/provider's progress and keep him/her aware of what you expect.
- Document all communications in the contract manager's file. Be careful not to over-step your authority when making promises.
- Keep your attitude friendly. You are both working for the same goal – the successful completion of the contract.
- Be assertive but not antagonistic. Remember that you are in charge.
- Enlist other staff members with different areas of expertise to provide advice and feedback to both you and the vendor/provider.
- Be honest in admitting when you don't know the answer to a vendor/provider's question and obtain an answer as soon as you can. Your resource group of experts can help you here. Don't pretend to know something you don't and expect to keep your credibility with the vendor/provider.

Working with the vendor/provider in a spirit of friendly cooperation will be much more effective than an adversarial relationship or one in which you overextend your authority. On the other hand, you should maintain enough control over all aspects of the contract to ensure the Department is protected and to protect clients' safety and health. You and the vendor/provider share the same goal; working together will make the contract experience more pleasant for you both and probably lead to a successful outcome. Remember that although your attitude should be a congenial one, you must still retain your objectivity and your ability to impose penalties when necessary.



## **E. CONTRACT MANAGER'S FILE ORGANIZATION**

The Contract Manager's file should be organized into the following sections:

### **1. Procurement Documents**

This component of the Contract Manager's file should contain any documentation/approvals required to be obtained prior to and during the vendor selection/solicitation process. Each procurement method has specific documentation requirements. The following, along with any other related documentation, are examples of what should be kept in this section of the Contract Manager's file:

#### **General Requirements for All Contracts**

- List of the names of all individuals taking part in the development of selection criteria, the vendor evaluation and/or selection process
- An Attestation of No Conflict of Interest from all individuals taking part in the development of the selection criteria, the vendor evaluation and/or selection process, as well as the Contract Manager and his/her supervisor
- State Project Determination Checklist (if applicable)
- State Project Compliance Supplement (if applicable)
- Audit Checklist Federal Funding (if applicable)
- Copies of approvals related to procurement activity, i.e., ITBs, RFPs, ITNs, RFIs, Single Source or Emergency procurements.

#### **Legal Services Contracts**

- Copy of written request for approval from the State Attorney General
- Copy of written approval from State Attorney General

#### **State Term (RFQ)/SPA (Written documentation of the following)**

- Business necessity of the items/services and quantity being purchased
- Criteria used to evaluate the services
- Criteria used to evaluate the State Term Contract vendors
- Justification for the items or services selected
- Justification for the vendor selected
- Copies of quotes obtained from vendors

## **Small Purchases**

- Copies of quotes as applicable

## **Non-Competitive Negotiation (Written documentation of the following)**

- A description of the circumstances necessitating the use of non-competitive negotiation procedures
- A statement as to why the person or firm selected represents the most advantageous decision for the state in terms of service and price

## **One or No Response**

- Written documentation for decision not to re-advertise
- Copy of Posting of No Award and Intent to Negotiate
- Detailed written documentation of negotiation

## **Single Source**

- Copy of Request for Information (RFI)
- Copy of approved & posted Intent to Procure from a Single Source
- Copy of approved and posted Notice of Intended Decision to Enter into a Single Source
- PUR 7777 form with DMS approval for single source procurements in excess of Category Four (\$195,000)

## **Emergency Procurement File Documentation**

- Certification of Emergency Statement
- PUR 7800 Exceptional Purchase form

## **Exemption**

- Written documentation to show why formal competitive purchasing practices (RFP/ITB/ITN) were not practicable and/or in the best interest of the department
- Written documentation which identifies the type of exempt service being procured in accordance with Florida Statutes and as follows:
  1. The specific statutory reference for the exemption being used to procure the services
  2. The exemption classification the procurement falls under
  3. A detailed explanation of how and why this particular vendor was chosen
  4. If the contract is the result of a federal or state grant or Legislative mandate that specifically designates the vendor as the provider of services, support documentation is included
  5. Any other documentation that will support the procurement under an exempt classification

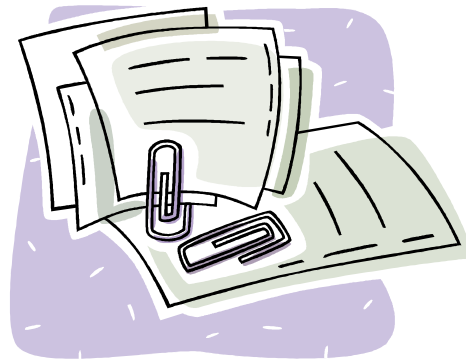
## Competitive Procurement/Solicitation File Documentation

- Proof of advertising (electronic posting)
- Copy of Letters of Intent
- Copy of solicitation document (RFP, ITB, ITN)
- Copies of Questions and Answers related to the solicitation
- Copies of Addenda to the Solicitation document
- Copies of all Bids/Proposals received in response to the solicitation
- Copy of Bid/Proposal Receipt Log for opening activities
- Copies of Selection Team's Evaluations
- Bid Tabulation (ITBs)
- Ranking of Vendors (RFP, ITN)
- Documentation of Posting of Award
- Copies of Protest and Resolutions
- Written documentation of negotiations with each vendor (ITN)
- Copy of the Proposal Bond
- Scrutinized Companies Certification if over \$1 million
- Copy of Business Case if Outsourcing project over \$10 million

## 2. Contract Documents

This section of the Contract Manager's file contains all of the components of the contract document and supporting documentation as follows as applicable:

- Contract Approval form
- Contract Summary/Review form
- Contract: State Term or Non-State Term
- Attachment A
- Attachment B
- Attachment C
- Attachment D (if applicable)
- Attachment E (if applicable)
- Any additional attachments to the contract
- Cost Analysis if non competitive
- Scrutinized Companies Certification if over \$1 million
- State Contract Management System Form
- Procurement document if applicable



### **3. Amendment/Renewal/Extension Documents**

This section of the Contract Manager's file should contain any documentation required for amendments or renewals to the contract.

Contract Approval for each Amendment/Renewal/Extension

- Contract Summary/Review form for each Amendment/Renewal/Extension
- Executed Amendments/Renewals/Extension
- Supporting documentation

### **4. Correspondence**

This section of the Contract Manager's file should contain any correspondence related to the contract, telephone logs, written correspondence, termination or cancellation letters, etc., filed chronologically.

### **5. Reports**

This section of the Contract Manager's file should contain the following as applicable:

- Monitoring Plan and subsequent reports
- Corrective Action Plans
- Documentation of Follow-up for Monitoring/Corrective Action
- Property Inventory
- Vendor's Financial Audit Reports (If applicable)
- Contract Manager's Review Findings of Vendor Audit Report
- Copies of Written Contract Deliverables (reports)

### **6. Payment Records**

This section of the Contract Manager's file should contain the following as applicable:

- Payment Activity Log/Ledger
- Justification and approval for advance payments
- Copies of invoices and supporting documentation
- Written documentation of payment problems and resolutions
- Copies of Certifications for Retroactive Payment (Emergencies/ Non-compliance)
- Contract Summary Forms

# Appendix

## A

### *Contract Approval Form*

**DEPARTMENT OF EDUCATION CONTRACT APPROVAL FORM**

Original Contract

1. Contract No.                      2. Amount \$                      3. Contractor's Name                      4. Vendor Code
5. Contract Manager's Name/Title/Division                      6. Contract Manager's Address & Phone No., and E-mail Address
7. Method of Payment                      8. Service Desc and Class/Group
- ☐ Fixed Rate                      ☐ Lump Sum                      ☐ Cost Reimbursement
- ☐ Cost Plus (any combination)                      ☐ Advance Funded
9. Method of Procurement

RFP: _____ ITB: _____ ITN: _____ RFQ: _____ Single Source: _____ Exemption: 287.057(3)(f): # _____ Emergency <input type="checkbox"/> Yes, (Requires Documentation) _____ State Term Contract No. _____ Required by Law: _____ Contract less than or equal to \$35,000 _____
--

10. ☐ CFDA No. \_\_\_\_\_ OR ☐ CSFA No. \_\_\_\_\_ If a number is assigned, then determine the relationship as follows:  
☐ Vendor OR ☐ Recipient/Subrecipient

11. \_\_\_\_\_ Date \_\_\_\_\_  
 Office of Contracts, Grants and Procurement  
 Audit Section's Approval (if applicable)
12. \_\_\_\_\_ Date \_\_\_\_\_  
 Budget Officer's Approval

13. \_\_\_\_\_ Date \_\_\_\_\_  
 Chief Technology Officer Approval for  
 Information Resource Management (IRM) (if applicable)
14. Risk Assessment:  
 Score \_\_\_\_\_  
 Direct ☐ Indirect ☐ Pass-through ☐  
 Directed Appropriation ☐

15. Beginning Date                      Ending Date                      16. Disclosure Statement                      17. Contract Term and Renewals

						<input type="checkbox"/> Yes <input type="checkbox"/> Exempt					
18. ORG CODE			FLAIR Account Code:	GF	SF	FID	BE 48 48	IBI 00 00	CAT		
DIV L2	BUR L3	SEC L4	L5	EO	OBJECT CODE(S)	AMOUNT	VENDOR I.D. or JOURNAL TRANSFER NO.	GRANT NUMBER	ENC GL	ENC LN	
			000						94100	0001	
			000						94100	0002	
			000						94100	0003	
			000						94100	0004	

19. Submitted By \_\_\_\_\_ Date \_\_\_\_\_ Telephone No. \_\_\_\_\_
20. Comments
21. Summary of any time constraints that applied to the procurement
22. Justification for not using competitive solicitation

<b>A. Contract Administrator</b>  Signature _____ Date _____	Comments
<b>B. Program Director's Approval</b>  Signature _____ Date _____	Comments
<b>C. Cabinet Member's Approval</b>  Signature _____ Date _____	Comments
<b>D. Office of the Comptroller, Contract Section</b>  Signature _____ Date _____	Comments
<b>E. Office of the General Counsel – Legal Review</b> Approve <input type="checkbox"/> Disapprove <input type="checkbox"/> Subject To <input type="checkbox"/>  Signature _____ Date _____	Comments
<b>F. Obtain Contractor's Approval of Contracts</b>  _____	_____
<b>G. Assistant Deputy Commissioner</b>  _____	Comments
<b>H. Deputy Commissioner/Finance and Operations</b>  Signature _____ Date _____	Comments
<b>I. <input type="checkbox"/> Obtain Commissioner's Approval of Contracts</b>	_____
<b>J. Contract Administrator</b>	Contract Distributed _____ Date: _____

# Appendix

# B

*Contract Summary/Review Form*

**DEPARTMENT OF EDUCATION**  
**CONTRACT SUMMARY/REVIEW FORM**

**Contract  
Manager:**

\_\_\_\_\_

Contract Manager's Name	Title	Date
-------------------------	-------	------

**Division/Bureau:**

\_\_\_\_\_

Division

\_\_\_\_\_

Bureau

**Phone Number:**

\_\_\_\_\_

**Check One :**   **Original**  
**Contract**   \_\_\_\_\_   **Amendment**   \_\_\_\_\_   **Renewal**   \_\_\_\_\_   **Extension**   \_\_\_\_\_

<b>Original Contract Amt. \$</b>	<b>Amendment/ Renewal/ Extension Amt. \$</b>	<b>Total Contract Amt. \$</b>
_____	_____	_____

**Contract No.**   \_\_\_\_\_   **Contractor Name:**   \_\_\_\_\_

**Start Date:**   \_\_\_\_\_   **End Date:**   \_\_\_\_\_   **Need by Date:**   \_\_\_\_\_

**Purpose of Contract/Summary of Services:**

**Explanation of Method of Payment:**

**Special Instructions:**

**Contract Administration Use only**

**DATE REC'D CONTRACT ADMINISTRATION:** 1<sup>ST</sup> \_\_\_\_\_ 2<sup>ND</sup> \_\_\_\_\_ 3<sup>RD</sup> \_\_\_\_\_

**CONTRACT ADMINISTRATION REVIEWER:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_ - \_\_\_\_\_

# Appendix

## C

*State Term Contract*

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(STATE TERM)  
NO. \_\_\_\_\_

Department of Education Division: _____ Bureau: _____ Section: _____	Name of Contractor _____ Address of principle place of business: _____ _____ _____ _____
---	--

THIS CONTRACT is entered into as a contractual undertaking by and between the Florida Department of Education (Department) and the above-named Contractor ("Contractor") as of the Effective Date. This Contract makes specific to the project, identified below ("Project"), the terms and conditions of the above-referenced State Term Contract.

Name of Project:

II. Brief Summary of Nature and Purpose of Project:

III. Contract Documents:

*The documents establishing and constituting the contractual relationship between the Department and the Contractor (referred to collectively as the "Contract") supersede all prior agreements and understandings, written or oral, regarding this Project. This Contract consists of the following documents and all of the following attachments, which are hereby incorporated by reference and made a part hereof, and which are identified as follows:*

- A. Attachment A: Detailed Description of Performance Duties;
- B. Attachment B: Schedule of Progress Payments;
- C. Attachment C: Standard Terms and Conditions;
- D. If determined by the Department to be applicable, Attachment  
D: Single Audit Act Requirements. The Department determines that Attachment D is  
\_\_\_\_\_ applicable;
- E. Attachment E: Minority Sub Contractors Utilization summary. The Department determines  
that Attachment E is \_\_\_\_\_ applicable;
- F. Attachment F: The above-referenced State Term Contract; and

The provisions of this Contract and Attachments A, B, and C shall govern any inconsistent or conflicting provisions in the other Contract documents identified above. Provisions in the \_\_\_\_\_ and each document made a part thereof shall govern any inconsistent or conflicting provisions in the Proposal and each document made a part thereof.

DOE Contract No. \_\_\_\_\_, Page 1 of 3

State Term OGC-CM 06  
Last revised 07/13/2006

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(STATE TERM)

**IV. Project Management:**

The Department and the Contractor designate their respective representatives, identified below ("Contract Manager"), for coordination, communication, and management of the Project.

For the Department:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Mailing address)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Phone, fax and e-mail)

For the Contractor:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Mailing address)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Phone, fax and e-mail)

**V. Effective Date:**

This Contract shall be effective on \_\_\_\_\_, or the date upon which it is signed by both Department and Contractor, whichever is later. ("Effective Date").

**VI. Expiration Date:**

This Contract shall expire on \_\_\_\_\_, unless cancelled earlier in accordance with its terms.

**VII. Renewal:**

Subject to the limitations set forth in Sections 287.057(14), and 287.058(1)(f), Florida Statutes, and Attachment C, Section I.F, this CONTRACT is renewable at the option of the Department for a renewal period or periods with commencement and expiration dates as follows:

The Department shall provide advance written notice of at least \_\_\_\_\_ days of its decision to exercise its option.

**VIII. Travel:**

Contractor will be reimbursed for travel pursuant to Section 112.061, Florida Statutes.

**IX. Notice:**

Notice given pursuant to the terms and conditions of this Contract shall be sufficient if given to the receiving party's Contract Manager either 1) in writing addressed to that Contract Manager by certified mail, return receipt requested, or 2) by hand delivery.

DOE Contract No. \_\_\_\_\_, Page 2 of 3

State Term OGC-CM 06  
Last revised 07/13/2006

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(STATE TERM)

**X. Approval and Execution:**

The Department and the Contractor have caused this Contract to be executed by their undersigned officials, duly authorized.

(Contractor Name)

Department of Education

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: Commissioner  
Date: \_\_\_\_\_

Approval of Department's Office of General Counsel  
as to form and legality:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

DOE Contract No. \_\_\_\_\_, Page 3 of 3

State Term OGC-CM 06  
Last revised 07/13/2006

# Appendix

# D

## *Non-State Term Contract*

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(NON-STATE TERM)  
NO. \_\_\_\_\_

Department of Education	Name of Contractor _____
Division: _____	Address of principle place of business: _____
Bureau: _____	_____
Section: _____	_____
	_____

THIS CONTRACT ("Contract") is entered into as a contractual undertaking by and between the Florida Department of Education ("Department") and the above-named Contractor ("Contractor") as of the Effective Date concerning the project identified below ("Project").

Name of Project:

II. Brief Summary of Nature and Purpose of Project:

III. Contract Documents:

*The documents establishing and constituting the contractual relationship between the Department and the Contractor (referred to collectively as the "Contract") supersede all prior agreements and understandings, written or oral, regarding this Project and consist of the following:*

- This Contract, including all of the following attachments, which are hereby incorporated by reference and made a part hereof, and which are identified as follows (reference additional attachments as appropriate):
  1. Attachment A: Detailed Description of Performance Duties;
  2. Attachment B: Payment Schedule;
  3. Attachment C: Standard Terms and Conditions;
  4. If determined by the Department to be applicable, Attachment D: Single Audit Act Requirements. The Department determines that Attachment D \_\_\_\_\_ and
  5. Attachment E: Minority Sub Contractors Utilization Summary. The Department determines that Attachment E is \_\_\_\_\_ applicable.

The provisions of this Contract and Attachments A, B, and C shall govern any inconsistent or conflicting provisions in the other Contract documents identified above. Provisions in the \_\_\_\_\_ and each document made a part thereof shall govern any inconsistent or conflicting provisions in the Proposal and each document made a part thereof.

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(NON-STATE TERM)

IV. Project Management:

The Department and the Contractor designate their respective representatives, identified below ("Contract Manager"), for coordination, communication, and management of the Project.

For the Department:

For the Contractor:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Mailing address)

\_\_\_\_\_  
(Mailing address)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Phone, fax and e-mail)

\_\_\_\_\_  
(Phone, fax and e-mail)

V. Effective Date:

This Contract shall be effective on \_\_\_\_\_, or on the date upon which it is signed by both Department and Contractor, whichever is later. ("Effective Date").

VI. Expiration Date:

This Contract shall expire on \_\_\_\_\_, unless cancelled earlier in accordance with its terms.

VII. Renewal:

Subject to the limitations set forth in Sections 287.057(14), and 287.058(1)(f), Florida Statutes, and Attachment C, Section I.F, this Contract is renewable at the option of the Department for a renewal period or periods with commencement and expiration dates as follows:

The Department shall provide advance written notice of at least \_\_\_\_\_ days of its decision to exercise its option.

VIII. Travel:

Contractor will ☐ will not ☐ be reimbursed for travel pursuant to Section 112.061, Florida Statutes.

IX. Notice:

Notice given pursuant to the terms and conditions of this Contract shall be sufficient if given to the receiving party's Contract Manager either 1) in writing addressed to that Contract Manager by certified mail, return receipt requested, or 2) by hand delivery.

STATE OF FLORIDA DEPARTMENT OF EDUCATION  
CONTRACT  
(NON-STATE TERM)

**X. Approval and Execution:**

The Department and the Contractor have caused this Contract to be executed by their undersigned officials, duly authorized.

(Contractor Name)

Department of Education

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Commissioner \_\_\_\_\_  
Date: \_\_\_\_\_

Approval of Department's Office of General Counsel  
as to form and legality:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# Appendix

# E

*Attachment A*

**STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
PROCUREMENT CONTRACT – ATTACHMENT A  
DETAILED DESCRIPTION OF PERFORMANCE DUTIES**

The detailed description of the Contractor's performance duties and related provisions for the procurement Contract awarded to Contract No. \_\_\_\_\_, are as follows:

**I. Project Overview:**

A. Program Background and Purpose of Project.

B. Scope of Work:

C. Governing Statutory and Administrative Requirements.

The statutes and administrative rules or regulations to be implemented by, this project are as follows:

State:

Federal:

D. Required Outcome of the Project.

E. Role of Contractor in the Project Outcome.

F. Role of the Department.

**II. Project Phases and Deliverables (include associated tasks and documentation to be used as evidence of completion):**

A. Description of the Major Phases Stages or Other Organizational Structure of the Project.

B. Deliverables.

The following is the itemized list of each Deliverable which the Contractor is required to provide to the Department, and for each Deliverable: the specifications for the Deliverable; the description of the activities leading to the Deliverable; and, the expected date of completion of the Deliverable.

C. Criteria for Final Completion of the Contract.

The criteria for final completion of the Contract are the delivery to, and approval by, the Department of all Deliverables required by the Contract.

D. Acceptance Testing.

To implement the provisions of Attachment C, Section IV., Deliverables shall be approved in accordance with the following acceptance testing plan:

E. Software Updates.

If the project involves the use of software to be provided by or through the Contractor, periodic updates to such software will be handled in accordance with the following:

**III. Modification of Standard Terms and Conditions.**

Each of the following enumerated provisions supersedes or modifies, as indicated, the Section of Attachment C, Standard terms and Conditions, to which it expressly refers:

**IV. Performance Bond.**

As provided in Attachment C, Section XVII.:

**STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
PROCUREMENT CONTRACT – ATTACHMENT A  
DETAILED DESCRIPTION OF PERFORMANCE DUTIES**

- A. The Contractor shall provide a performance bond ☐ , another form of security ☐ or not applicable ☐ .
- B. If applicable, the amount of the Contractor's performance bond is ☐ us not ☐ the total amount of the Contract. If the amount is not the total amount of the Contract it is the amount of \$ .
- C. If applicable, the form of the other security shall be ( ) in the amount of \$

**V. Financial Consequences**

The contract manager shall periodically review the progress made on the activities and deliverables listed above. If the contractor fails to meet and comply with the activities/deliverables established in the contract or to make appropriate progress on the activities and/or towards the deliverables and they are not resolved within two weeks of notification, the contract manager may approve a reduced payment or request the contractor redo the work or terminate the contract.

**VI. Additional Terms and Conditions.**

The Contract includes the following enumerated additional terms and conditions:

DOE Contract No. , Attachment A, Page 2 of 2

Form OGC-CM 02

Last revised 01/13/2009

# Appendix

## F

*Attachment B*

STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
PROCUREMENT CONTRACT – ATTACHMENT B  
PAYMENT TERMS AND SCHEDULE

The Payment Terms and Schedule for the procurement contract awarded to \_\_\_\_\_, Contract No. \_\_\_\_\_ are as follows:

I. An "X" in the box adjacent to each provision in this section signifies that the provision is applicable to the Contract into which this Attachment B is incorporated.

A. Either 1 or 2 applies:

☐ 1. The total payment shall be the amount entered in the space provided in Section II, below.

or

☐ 2. The total payment shall be an amount not to exceed the amount entered in the space provided in Section II, below.

---

B. Either 1 or 2 applies:

☐ 1. The total payment shall be paid as a single, lump sum payment upon the Contractor meeting the criteria for completion of the Contract.

Or

☐ 2. The total payment shall be paid as scheduled progress payments in accordance Section III, below, which prescribes the amount of each payment, the specified Deliverable(s) that must be received and approved prior to each payment, and the projected payment date.

Or

☒ Not applicable

---

C. If I. A 2. applies, check whether any of the following apply:

☐ 1. The total payment includes amounts, which are set aside for specified activities as described in Section IV, below. Records shall be kept by the Contractor to account for amounts earned for each activity. In the event that the full amount set aside for any activity is not earned, the unearned amount shall revert to the Department and shall be reflected as an adjustment to the final payment.

☐ 2. Contract payments shall be based on a system of rates as prescribed in Section V, below, which shall account for all or a portion of the total contract payment also as prescribed in Section V, below.

---

II. As specified in Section I.A., the amount of the total payment, or the amount that the total payment shall not exceed is the following: One-hundred dollars (\$ 100.00).

---

III. The schedule of progress payments, the Deliverable(s) required to be received and approved, and the projected payment dates are set forth below. The actual date of payment shall be governed by the receipt and approval of the Deliverable(s), not by the projected payment date which is included to assist in planning the Contract activities and managing the project.

Amount of Payment

Projected Date

Description of Deliverables

STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
PROCUREMENT CONTRACT – ATTACHMENT B  
PAYMENT TERMS AND SCHEDULE

- IV. The amounts included in the total payment which are set aside for specified activities in accordance with Section I.C.1, above, the specified activity to which each amount pertains, and the criteria under which the Contractor earns portions of the amount which is set aside are described below:

<u>Amount Set Aside</u>	<u>Description of Activity</u>	<u>Criteria for Earning Portion of the Amount which is set aside</u>
-------------------------	--------------------------------	--

- 
- V. The system of rates upon which contract payments are based is prescribed as follows:

- A. As applicable, the type of work or the professional designation of a worker to whom the rate applies, the dollar amount of the rate, and the time unit covered by the rate amount are set forth below:

<u>Dollar Amount</u>	<u>Per Time Unit</u>	<u>Type of Work or Professional Designation of a Worker</u>
----------------------	----------------------	---

- B. As needed, further description or explanation of the information prescribed in Section V.A, above, such as but not limited to conditions precedent to the commencement of work, payment caps by category, or conditions under which the time unit or dollar amount may be adjusted are as follows:

- . Each invoice which requests a payment based upon the system of rates:

- shall identify the pertinent dollar amount per time unit and the category of type of work, or professional designation of worker, in language which corresponds to subsection V.A, above;
- shall specify the totals of the time units and amount of payment sought for each category of type of worker and for each worker; and,
- shall be documented by time and performance records which are adequate for preaudit and postaudit.

- VI. For purchases pursuant to state term contracts, the total payment for completion of all requirements of the Contract which makes specific the Department's procurement under a State Term Contract awarded to the Contractor by the Department of Management Services reflects a savings to the Department in comparison to the total projected amount for the same work under the rates established in the State Term Contract No \_\_\_\_\_, as explained below.

- VII. Federal funds awarded through the Department by this Contract, if any: \$ \_\_\_\_\_.

# Appendix

# G

*Attachment C*

**STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
STATEMENT OF WORK – ATTACHMENT C  
STANDARD TERMS AND CONDITIONS**

**Contract No.**

- I. Pursuant to S. 287.058(1), Florida Statutes ("F.S.):
- A. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
  - B. Travel expenses will be reimbursed only if expressly authorized by the terms of the Contract. Bills for any travel expenses shall be submitted in accordance with s. 112.061, F.S.
  - C. The Department may unilaterally cancel this Contract if the Contractor refuses to allow access by members of the public to all documents, papers, letters and materials made or received in conjunction with the Contract that are subject to Chapter 119, F.S., and are not exempt from public inspection by s. 119.071, F.S., or by other provisions of general or special law.
  - D. The Deliverables specified in the Contract must be received and accepted in writing by the Department's Contract Manager before Contractor is entitled to payment.
  - E. To complete this Contract, all services must be performed and/or goods received on or before the date(s) specified in the Contract.
  - F. If this Contract is expressly renewable, it may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer. The renewal price for the contracted service is set forth in the bid, proposal, reply. Cost for renewal shall not be changed. Renewals shall be contingent on satisfactory performance evaluations by the Department and subject to the availability of funds. Exceptional purchase contracts pursuant to s. 287.057(3)(a) and (c), F.S., may not be renewed.
- II. The Contractor shall prepare an invoice for the amount due and mail it to the Department of Education Comptroller after having delivered the products and services required under this Contract to the Contract Manager. The invoice shall set forth details sufficient for a proper pre-audit and post-audit including, where applicable, the products and services delivered and completion dates. Upon receipt of the invoice, the Department of Education Comptroller will request confirmation from the Contract Manager that the delivered products and services are satisfactory and payment is due. If for any reason they are not satisfactory, payment will be withheld until the unsatisfactory condition or conditions are corrected. Upon receipt of the Contract Manager's approval, the Department of Education Comptroller shall process each invoice in accordance with the provisions of s. 215.422, F.S.
- A. Contractor agrees to submit invoice within thirty (30) days of the Department's acceptance of deliverables. It is understood that should Contractor fail to submit invoice within thirty (30) days following the Department's acceptance of the deliverables, the Department shall not be responsible for payment thereof under this contract or quantum meruit.
- III. Section 215.422, F.S., provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the Contract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to s. 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Department's Fiscal s. at 850/245-0401 or Purchasing Office at 850/245-0483. Payments to health care providers for hospitals, medical, or other health care services, shall be made not more than thirty-five (35) days from the date of eligibility for payment is determined, and the daily interest rate is .02740 percent. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State Agency, may be contacted at 866/352-3776 or by calling the Chief Financial Officer's Hotline, 800/342-2762.
- IV. As used in this Contract, the term "Deliverable" refers to tangible "commodities", as defined in s. 287.012(5), F.S., which the Contractor provides pursuant to the Contract and to reports or other tangible or documentary evidence which demonstrate that the Contractor has performed the services required by the Contract. The following provisions govern Deliverables, as applicable:
- A. Each Deliverable must be physically delivered to the Department's Contract Manager, or to a person designated by the Contract Manager. If delivery is made to a designee, the Contractor shall give written notice to the Contract Manager of the delivery. A Deliverable is not received until the Contract Manager has physical control of deliveries or has written notice that the designee has physical control.
  - B. In each case in which the approval of a Deliverable is dependent upon tests being conducted by the Department or Contractor, independently or jointly, the Department's inspection and approval of the Deliverable shall not be subject to the five (5) day provision in s. 215.422, F.S., but shall be governed by the terms and conditions of the acceptance testing plan as stated in Attachment A, until approved in accordance with the plan.
  - C. In each case of a Deliverable of information technology, as defined at s. 287.012(14), F.S., unless specified otherwise in Attachment A, the acceptance testing plan is deemed to include as a minimum the reliable performance of the information technology in accordance with its design specifications in:
    - 1. a test environment that simulates the production environment as much as is reasonably possible; and
    - 2. the production environment for which it is intended for a period of time sufficient for the information technology to have experienced the major foreseeable exigencies of the production functions.
  - D. The Department's inspection, including testing when applicable, shall determine whether or not the Deliverables appear to be in compliance with the Contract. The Contractor shall be notified in writing of any apparent deficiency. The written notice shall detail the specific action required by the Contractor to correct the deficiency. The Contractor shall timely correct such deficiency and resubmit the deliverable for acceptance.
- V. The Contractor represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best of knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of s. 68.082, F.S., pertaining to false claims against the State, and/or s. 837.06, F.S., pertaining to false official statements.
- VI. This paragraph applies if this Contract expires in a fiscal year subsequent to the fiscal year in which the Contract is entered. The State of Florida's fiscal year comprises July 1 through June 30. The Department's and State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. If the Legislature fails to make the necessary appropriation, the Department will determine if there are other unencumbered funds which are available and which can be lawfully expended to pay for the Department's obligations hereunder. If the Department determines that there are no such funds, the Department shall promptly notify the Contractor. The giving of notice shall be deemed to have cancelled this Contract by mutual consent, with the date of notice being the date of cancellation.
- VII. Notwithstanding anything to the contrary contained in a State Term Contract, Contractor warrants that all commodities, as defined in s. 287.012, F.S., shall meet the specifications of the Contract and shall be merchantable and fit for the particular purposes intended by the Contract.
- VIII. The Contractor further warrants that as to each Deliverable produced pursuant to this Contract, Contractor's production of the Deliverable, and the Department's use of the Deliverable, will not infringe on the copyrights of any third party. This provision applies to each work of authorship in which copyrights

**STATE OF FLORIDA, DEPARTMENT OF EDUCATION  
STATEMENT OF WORK – ATTACHMENT C  
STANDARD TERMS AND CONDITIONS**

subsist pursuant to 17 U.S.C. Sections 102-105 and to each exclusive right established in 17 U.S.C. Section 106. In furtherance of this provision the Contractor additionally warrants that:

- A. As to each work of software or other "information technology", as defined in s. 287.012(15), F.S., in which copyrights subsist, the Contractor has acquired the rights by conveyance or license to any third party software or other information technology, which was used to produce the Deliverable;
- B. As to each image and sound recording incorporated into a Deliverable, the Contractor has acquired the necessary rights, releases, and waivers from the person whose image or sound is included, or from the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual work or sound recording from which the included image or sound recording was taken.
- IX. The Contractor further warrants that the Contractor shall not disclose to any third party, without the express, prior, written approval of the Department, any personally identifiable information about any student. This applies to information which came from any record or report of a Florida public education institution or from any education record which is subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g. The terms "record a report" and "student" shall have the meanings prescribed in s. 1002.22(2)(c) and (d), F.S. The term "educational record" shall have the meaning prescribed in 20 U.S.C. Section 1232g(a)(4).
- X. In the event that the Governor and Cabinet are required to impose a mandatory reserve on appropriations, the Department shall amend this Contract to place in reserve the amount determined by the Department of Education to be necessary because of the mandatory reserve. Such amendments may provide for adjustments in the Deliverable products and services as may be necessary.
- XI. Intellectual property is subject to following additional provisions:
  - A. Anything by whatsoever designation it may be known, that is produced by, or developed in connection with, this Contract shall become the exclusive property of the of the State of Florida and may be copyrighted, patented, or otherwise restricted as provided by Florida or federal law. Neither the Contractor nor any individual employed under this Contract shall have any proprietary interest in the product.
  - B. With respect to each Deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the Department pursuant to s. 1006.39, F.S., on behalf the State of Florida.
  - C. In the event it is determined as a matter of law that any such work is not a "work for hire", Contractor shall immediately assign to the Department all copyrights subsisting therein for the consideration set forth in the Contract and with no additional compensation.
  - D. The foregoing shall not apply to any preexisting software, or other work of authorship used by Contractor, to create a Deliverable but which exists as a work independently of the Deliverable, unless the preexisting software or work was developed by Contractor pursuant to a previous Contract with the Department or a purchase by the Department under a State Term Contract.
  - E. The Department shall have full and complete ownership of all software developed pursuant to the Contract including without limitation:
    - 1. The written source code;
    - 2. The source code files;
    - 3. The executable code;
    - 4. The executable code files;
    - 5. The data dictionary;
    - 6. The data flow diagram;
    - 7. The work flow diagram;
    - 8. The entity relationship diagram; and
    - 9. All other documentation needed to enable the Department to support, recreate, revise, repair, or otherwise make use of the software.
- XII. The Department reserves the right, at its option, to issue a change order to delete work tasks reducing the total Contract amount by up to 10%. An addition of work tasks within the scope of the Contract, an increase in the total Contract amount, or a decrease of more than 10% of the total Contract amount, shall be implemented only by a Contract amendment signed by both the Department and the Contractor.
- XIII. Pursuant to s. 216.347, F.S., no funds awarded under this Contract may be used for the purpose of lobbying the Legislature, the judicial branch, or a State agency.
- XIV. The Contractor shall grant access to all records pertaining to the Contract to the Department's Inspector General, General Counsel and other agency representatives, the State Auditor General, the Office of Program Policy and Government Accountability, and the Chief Financial Officer.
- XV. The Contractor agrees to permit onsite visits by designated Department employees or agents to conduct audits to ensure compliance with Section 20.055, Florida Statutes. These audits may require Department access to records and data, computers and communications devices, and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc) that may be produced, transmitted or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.
- XVI. The Contractor must carry general liability insurance, which shall include errors and omissions coverage. The amount of coverage shall be a minimum of \$1,000,000 or the aggregate total of all contractual agreements between the Contractor and the agencies and political subdivisions of the State of Florida, whichever is greater. The Contractor shall add the Department as an additional insured on the general liability coverage. The insurance shall cover all of the Contractor's operations under this Contract and shall be effective throughout the Term of this Contract, as well as any renewals or extensions thereto. It is not the intent of this Contract to limit the types of insurance otherwise required by this Contract or that the Contractor may desire to obtain or be required to obtain by law. The Contractor must submit a Certificate of Insurance indicating coverage for general liability purposes and additional insured coverage, and shall maintain and pay for same throughout the Term of this Contract. A Certificate of Insurance indicating adequate coverage shall be submitted to the Department prior to the time the Contract is entered. Any and all insurance policies shall be through insurers qualified to do business in Florida.
- XVII. The Contractor agrees to provide the Department upon execution of this Contract with a performance bond or other security deposited with the Department in the total amount of the Contract or another amount if specified in the procurement specifications or Attachment A, guaranteeing that the Contractor will perform all work according to this Contract, within the time and price specified in the Contract. A performance bond shall be issued from a surety company, qualified to do business in Florida.
- XVIII. The Contractor may not assign or subcontract all or any portion of this Contract without the advance written consent of the Department.
- XIX. In all cases in which the Contractor, with the advance written consent of the Department, assigns or subcontracts, all or any portion of the Contract:

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- A. The Contractor shall monitor the subcontractor or assignee and establish controls to avoid or mitigate risks identified by the Department or the Contractor; and
- B. The Contractor shall allow the Department to monitor subcontractor or assignee activity and compliance, and the Contractor shall require the subcontractor or assignee to promptly submit to the Department, at the Department's request, complete and accurate documentation pertaining to the subcontract or the Contract.
- XX. The Contractor shall coordinate with and assist the Department's Contract Manager in the performance of the latter's responsibilities, which include without limitation:
  - A. Monitoring the activities of the Contractor;
  - B. Receiving and reviewing the reports of the Contractor to determine whether the objectives of the Contract are being accomplished;
  - C. Receiving and reviewing the invoices for payment of funds to assure that the requirements of the Contract have been met and that payment is appropriate;
  - D. Evaluating the process used by the Contractor to monitor the activities of any subcontractor or assignee; and
  - E. Accessing, directly, the subcontractors and assignees, as the Contract Manager deems necessary.
- XXI. This Contract may not be modified unless in writing signed by the Department and the Contractor.
- XXII. The Department and the Contractor waive application of the principle of contract construction that ambiguities are to be construed against a contract's drafter, and agree that this Contract is their joint product.
- XXIII. The Department and the Contractor acknowledge that they have had their respective attorneys review and approve this Contract or that they have had the opportunity to do so.
- XXIV. This Contract shall be governed by the laws of the State of Florida, and venue for purposes of any action brought to enforce or construe the Contract shall lie in Leon County, Florida.
- XXV. Failure of the Department to declare any default immediately upon the occurrence or knowledge thereof, or delay in taking any action in connection therewith, does not waive such default. The Department shall have the right to declare any such default at any time and take such action as might be lawful or authorized under the Contract, at law, or in equity. No Department waiver of any term, provision, condition or covenant of the Contract shall be deemed to imply or constitute a further Department waiver of any other term, provision, condition or covenant of the Contract, and no payment by the Department shall be deemed a waiver of any default under the Contract.
- XXVI. Time is of the essence with regard to each and every obligation of the Contractor contained in the Contract. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from the untimely performance thereof) shall constitute a material breach.
- XXVII. The Contractor shall indemnify and hold harmless the Department, its attorneys, agents and employees, from and against any and all third party claims, suits, debts, damages, and causes of action, whatsoever, whether arising in law or in equity, arising out of or relating to Contractor performance or failure to perform under this Contract. The indemnification shall include reasonable attorney fees and costs incurred by the Department, its attorneys, agents and employees, in the defense of any such claim, suits or causes of action, as aforesaid.
- XXVIII. This Contract may be cancelled by written agreement of the Department and the Contractor specifically referencing this Contract. Such agreement shall specify the remaining measures necessary to be taken by each party.
- XXIX. The Department reserves the right to cancel this contract without cause by giving the Contractor thirty (30) days written notice.
- XXX. Should Contractor fail to perform to Contract terms and conditions, Contractor shall be notified in writing, stating the nature of the failure to perform and providing a time certain (which shall be not less than ten (10) days following receipt of such notice) for correcting the failure. Such failure to perform shall otherwise be dealt within accordance with Rule 60A-1.006, F.A.C.
- XXXI. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
- XXXII. The employment of unauthorized aliens by any contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract. In addition, pursuant to Executive Order 11-02, the Contractor will utilize the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of (a) all persons employed during the Contract term by the Contractor to perform employment duties within Florida; and, (b) all persons (including subcontractors) assigned by the Contractor to perform work pursuant to this Contract.
- XXXIII. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
  - A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  - B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal. The Department may cancel this contract if an attached explanation is not acceptable to the Department or the Federal government.
- XXXIV. MyFloridaMarketPlace
  - A. MyFloridaMarketplace Vendor Registration

Each Vendor doing business with the State of Florida for the sale of commodities or contractual services as defined in section 287.012, Florida Statutes, shall register in MyFloridaMarketPlace, in compliance with Rule 60A-1.030, Florida Administrative Code, unless exempt under Rule 60A-1.030(3) Florida Administrative Code.
  - B. MyFloridaMarketplace Transaction Fee

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to section 287.057(23), Florida Statutes (2010), all payments for commodities and/or contractual services as defined in Section 287.012, Florida Statutes, shall be assessed a Transaction Fee of one percent (1.0%), which the Vendor shall pay to the State, unless exempt under Rule 60A-1.032, Florida Administrative Code. Notwithstanding the provisions of Rule 60A-1.030, et seq., the assessment of a transaction fee shall be contingent upon Federal approval of the transaction fee assessment program and continued payment of applicable federal matching funds.

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

The Vendor shall receive a credit for any Transaction Fee paid by the Vendor for the purchase of any item(s) if such item(s) are returned to the Vendor through no fault, act, or omission of the Vendor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Vendor'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 Vendor in default and recovering reprourement costs from the Vendor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.

# Appendix

# H

*Attachment C – Vocational Rehabilitation*

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**I. Composition of Contract; Entire Contract; No Modifications Except in Writing.**

The agreement between the Department of Education/Division of Vocational Rehabilitation (DOE/DVR) and Contractor concerning the subject matter hereof consists of the Contract, this Attachment and all other attachments and exhibits referenced herein or in the Contract. In the event there is any inconsistency between the provisions of the Contract and the provisions of this Attachment or any other attachment or exhibit, the provisions of the Contract shall govern and control. The Contract, this Attachment and all other attachments and exhibits referenced herein or in the Contract may be referred to collectively as the "Contract." The Contract represents the total and complete agreement of DOE/DVR and Contractor relating to the subject matter of the Contract. The Contract supersedes any prior or contemporaneous written or oral agreements or representations relating to the subject matter of the Contract. No purported modification of the Contract shall be valid or binding on either party unless such modification is contained in a document executed by both parties.

**II. The Contractor Agrees:**

**A.** To comply with all applicable laws, statutes and regulations of the State of Florida and the United States, and to complete any forms required under such laws, statutes and regulations, whether or not such forms are referenced in this Contract.

**B. Audits and Records.**

1. To maintain (in accordance with generally accepted accounting procedures) and retain, during and for five (5) years after termination of this Contract, books, records and all other documents relating to this Contract. Such will sufficiently and properly reflect all expenditures of funds provided by DOE/DVR under this Contract (collectively, the "Records"). If an audit has been initiated and audit findings have not been resolved at the end of such five (5) year period, Contractor shall retain the Records until resolution of the audit findings.

2. To assure that state personnel, federal personnel and personnel authorized by the DOE/DVR shall have full access to the Records during the time Contractor is obligated to retain same.

3. To provide access to and, at the request of DOE/DVR, to furnish whatever information is deemed

necessary by DOE/DVR to be assured of satisfactory performance of the terms and conditions of the Contract. This includes access to financial reports, personnel and personnel work records. Any written comments from DOE/DVR to the Contractor regarding deficiencies in Contractor's performance must be responded to by the Contractor within the time specified in such comments. The Contractor shall either rectify such deficiencies or supply a reasonable written justification for not correcting such deficiencies.

4. The contractor agrees to permit onsite visits by designated DOE/DVR employees or agents to conduct audits to ensure compliance with Section 20.055, Florida Statutes. These audits may require department access to records and data, computers and communications devices and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc.) that may be produced, transmitted, or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.

5. To file with the DOE/DVR such Records as the DOE/DVR may require (in its sole discretion) within one (1) year after the completion of performance under this Contract.

6. To allow public access to all documents, papers, letters, or other materials made or received by Contractor in conjunction with this Contract, subject to the provisions of Chapter 119, Florida Statutes, §11 (F) below and other applicable law. DOE/DVR may unilaterally cancel this Contract if the Contractor refuses to allow access by members of the public to all documents, papers, letters and materials made or received in conjunction with the Contract that are subject to Chapter 119, Florida Statutes, and are not exempt from public inspection by Section 119.071 Florida Statute and other provisions of general or special law.

7. In accordance with the provisions of OMB Circular A-133, as revised, in the event that it expends equal to or in excess of the Federal thresholds for awards in its fiscal year and is otherwise subject to OMB Circular A-133, to have a single or program-specific audit conducted in accordance with the provisions of OMB

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Circular A-133, as revised. In determining the Federal awards, expended in its fiscal year, the Contractor shall consider all sources of Federal awards, including Federal funds received from DOE/DVR. The determination of amount of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirement of this part.

8. In connection with the audit requirements addressed above in Section II, Paragraph 7, to fulfill the requirements relative to auditee responsibilities as provided in Subpart c of OMB Circular A-133, as revised.

9. If it expends less than the Federal threshold for awards in its Fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised is not required. In the event that the Contractor expends less than the Federal threshold for awards in its fiscal year and elects to have an audit conducted in accordance with the provision of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from funds obtained from other than Federal entities).

10. In accordance with 215.97, Florida Statutes, applicable rules of the Office of the Governor and the Comptroller, if it expends a total amount of State awards (i.e., State Financial assistance provided to the Contractor to carry out a State project) equal to or in excess of the State threshold in any fiscal year of such Contractor, and is otherwise subject to 215.97, Florida Statutes, to have a single State or project-specific audit for such fiscal year. In connection with the audit requirements addressed in paragraph 10, the Contractor shall ensure the audit complies with the requirements of 215.97(7) Florida Statutes. This includes submission of a reporting package as defined by 215.97(2)(d), Florida Statutes.

11. If it expends less than the State threshold for awards in its fiscal year, an audit conducted in accordance with the provisions of 215.97, Florida Statutes, is not required. In the event that the Contractor expends less than the State threshold for awards in its fiscal year and elects to have an audit conducted in accordance with the provision of 215.97, Florida Statutes, the cost of the audit must be paid

from non-State funds (i.e., the cost of such an audit must be paid from the funds obtained from other than State entities).

**C. Monitoring by DOE/DVR.**

1. To permit persons duly authorized by the DOE/DVR, state and federal auditors full access to and the right to examine any of said records and documents at all reasonable times during the period of this Contract, during said retention period or as long as records retained, which ever is later. Those persons authorized to do so shall be entitled to inspect any records, papers, documents, facilities, or services of the Contractor relevant to this Contract and may interview Contractors of services and employees of the Contractor to be assured of satisfactory performance of the terms and conditions of the Contract. Following such inspection DOE/DVR shall deliver to the Contractor a written report of the findings, including specifically any noted deficiencies concerning the manner in which services are being provided. The Contractor will correct all noted deficiencies identified by the DOE/DVR within the specified period set forth in the recommendations.

2. In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, monitoring procedures may include, but not be limited to, on site visits by DOE/DVR, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Contract, the Contractor agrees to comply and cooperate with any monitoring procedures/process deemed appropriate by the DOE/DVR. In the event DOE/DVR determines that a limited scope audit of the Contractor is appropriate, the Contractor agrees to comply with any additional instructions provided by DOE/DVR regarding such audit. The Contractor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits necessary by the Comptroller or the Auditor General or other authorized body.

**D. Indemnification.** To indemnify, defend, and hold harmless DOE/DVR, its attorneys, agents, and employees, to the full extent allowed by law, from all claims, suits, judgments, debts, or damages, arising out of Contractor's performance or failure to perform under this contract, the negligent acts, negligent omissions or willful conduct of the Contractor relating

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to this Contract. The indemnification shall include reasonable attorney's fees and costs incurred by the DOE/DVR, its attorneys, agents and employees in the defense of any such suits, claims, or causes of action, as aforesaid. Nothing in this Contract is intended to serve as a waiver of sovereign immunity, nor shall anything in this Contract be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement.

**E. Insurance.** The Contractor must carry general liability insurance, which shall include errors and omissions coverage. The amount of coverage shall be a minimum of \$1,000,000 or the aggregate total of all contractual agreements between the Contractor and the agencies and political subdivisions of the State of Florida, whichever is greater. The Contractor shall add the Department as an additional insured on the general liability coverage. The insurance shall cover all of the Contractor's operations under this Contract and shall be effective throughout the Term of this Contract, as well as any renewals or extensions thereto. It is not the intent of this Contract to limit the types of insurance otherwise required by this Contract or that the Contractor may desire to obtain or be required to obtain by law. The Contractor must submit a Certificate of Insurance indicating coverage for general liability purposes and additional insured coverage, and shall maintain and pay for same throughout the Term of this Contract. A Certificate of Insurance indicating adequate coverage shall be submitted to the Department prior to the time the Contract is entered. Any and all insurance policies shall be through insurers qualified to do business in Florida.

**F. Safeguarding Information.**

1. Not to use or disclose any information concerning applicants or recipients of services under or incident to this Contract for any purpose not in conformity with state regulations and Federal law or regulations (45 CFR, Part 205.50, 34 CFR PART 361.38 and other applicable laws), except upon written consent of the applicant or recipient, or the responsible parent or guardian when authorized by law.
2. The Contractor is subject to all provisions of confidentiality of client records as set forth in § 413.341, Florida Statutes.

**G. Return of Funds** The Contractor agrees to return to DOE/DVR any overpayment due to unearned funds or funds disallowed pursuant to the terms of this Contract, the Vocational Rehabilitation Act of 1973, as amended, or appropriate state, federal regulations, rules and/or laws. In the event that the Contractor or its independent auditor discovers that an overpayment has been made, the Contractor shall repay said overpayment immediately together with an explanation of the funds returned. The return shall be due within forty-five (45) days following the expiration or early termination of this Contract, or within ten (10) days after the overpayment is discovered, whichever is sooner. If Contractor fails to timely repay such funds, the Contractor shall pay to DOE/DVR, in addition to such funds, interest at the rate set pursuant to Section 55.03, Florida Statutes. Interest shall immediately begin to accrue on the unpaid principal balance at the highest rate allowable by applicable laws, through the date on which such funds are fully repaid.

**H. Unusual Incident Reporting.** To report to DOE/DVR and the Florida Abuse Hotline knowledge of reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult. The Florida Abuse Hotline's statewide toll-free telephone number is 1-800-962-2873. Such reporting to be done in a manner prescribed in Chapter 415, Florida Statutes. This is binding upon both the Contractor and its employees.

**I. Transportation Disadvantaged.** If customers will be transported under this Contract, to subcontract with the designated Community Coordinated Transportation Contractor, or otherwise comply with the provisions of Chapter 427, Florida Statutes.

**J. Civil Rights Certification.**

1. To comply with:
  - a. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving or benefiting from federal financial assistance.
  - b. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability in programs and activities receiving or

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benefiting from federal financial assistance.

c. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of gender in education programs and activities receiving or benefiting from federal financial assistance.

d. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.

e. The Omnibus Budget Reconciliation Act of 1981, which prohibits discrimination on the basis of gender or religion in programs and activities receiving or benefiting from federal financial assistance.

f. Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination with respect to employment, compensation, and terms and conditions of employment on the basis of race, color, religion, gender, or national origin.

g. Florida Human Relations Act, which prohibits discrimination on the basis of race, color, religion, gender, national origin, age, disability, or marital status.

h. Americans with Disabilities Act, which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, state and local government services, and in telecommunications.

i. All other applicable laws, regulations and standards that prohibit discrimination on any basis on which discrimination is prohibited by any of the above-referenced laws.

**K. Independent Capacity of the Contractor.**

1. To be solely liable for the performance of all tasks contemplated by this Contract which are not the exclusive responsibilities of DOE/DVR.

2. To act in the capacity of an independent contractor and not as an officer, employee or agent of the State of Florida. The Contractor shall not represent to others that it has the authority to bind DOE/DVR unless specifically authorized in writing to do so. In addition to the Contractor, this is also applicable to its officers, agents, employees, subcontractors, or assignees in performance of this Contract.

Neither the Contractor, its officers, agents, employees, subcontractors, nor assignees are entitled

3. to state retirement or state leave benefits, or to any other compensation of state employment as a result of performing the duties and obligations of this Contract.

4. The DOE/DVR will not furnish services or support (e. g., office space, office supplies, telephone service, secretarial or clerical support) to Contractor-

5. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds and all necessary insurance for the Contractor, the Contractor's officers, employees, and agents shall be the responsibility of the Contractor.

**L. Sponsorship.** As required by Section 286.25, Florida Statutes, that all notices, informational pamphlets, press releases, advertisements, descriptions of sponsorship of the program research reports, and similar public notices prepared and released by the Contractor shall include the statement: "Sponsored by DOE/DVR and the State of Florida." If the sponsorship reference is in written material, the words "State of Florida, Department of Education/ Division of Vocational Rehabilitation" shall appear in the same size type and emphasis as the name of Contractor or other applicable organization.

**M. Invoices**

1. The Contractor shall submit properly completed monthly invoices in detail sufficient for a proper pre-audit and post-audit thereof and in a form acceptable to the DOE/DVR covering services rendered and/or goods provided under this Contract together with expenditure reports to support all requests for payment. The Contractor shall request payment on a monthly basis through the submission of properly completed invoices to the Contract Liaison within fifteen (15) days following the end of the month for services that were rendered. These invoices shall be on Contractor's letterhead and must state the total number of customers who received services, the date(s) the services were provided, together with the names of clients served during the payment period. Payments may be authorized only for services listed on the invoice, which are in accord with terms and conditions of this Contract. This requirement shall in no way affect the Final Invoice (Withholding Payment) requirements.

2. Final Invoice (Withholding Payment). The Contractor must submit the final invoice for payment to the

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DOE/DVR no more than sixty (60) days after the Contract ends or is terminated. If the Contractor fails to do so, all rights to payment is forfeited and the DOE/DVR will not honor any requests submitted after the aforesaid time period unless a written request for extension is received prior to the sixty (60) day deadline. The DOE/DVR Contract Liaison shall review all payment requests of the Contractor in a manner that will allow the Contractor to submit an invoice within sixty (60) days. If the final invoice cannot be submitted within the required sixty (60) days period, the Contractor must submit a written request for extension, to the Contract Manager, prior to the sixty (60) day deadline. The request must include a description of the circumstances beyond the Contractor's control that resulted in a need for additional time for the submission of the invoice. The DOE/DVR Contract Managers shall respond to these requests within ten (10) days after receipt of the request.

3. Any payment due under the terms of this Contract may be withheld until all reports due from the Contractor and necessary adjustments thereto, have been approved by the DOE/DVR. The DOE/DVR has final authority on any dispute on invoice payments.

4. The Contractor represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best of knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of s. 68.082, Florida Statutes, pertaining to false claims against the state and /or s. 837.06, Florida Statutes pertaining to false official statements.

**N. Lobbying, Fund-raising and Program Income.**

1. To comply with §216.347, Florida Statutes, which prohibits expenditure of contract funds for lobbying the Legislature or a state agency. Fund raising activities shall not be charged to, or reimbursed from, any DOE/DVR Contract proceeds.

2. Program income shall be used, at the direction of the DOE/DVR, to either reduce the Contract award or fund additional services eligible for State and Federal funding. For purposes of this Contract, "program income" shall mean gross income received by Contractor directly generated by a grant supported activity, or earned as a result of this Contract during

the term of this Contract. If any payment due under this Contract results directly from a budget line item submitted by Contractor and Contractor's actual costs or expenditures during the Contract term are less than the amount budgeted, the resulting excess payment shall be deemed, for purposes of this Contract, "program income."

**O. ONE-STOP.** To inform DOE/DVR immediately if they are or become a party to any contract with any State of Florida Department ONE STOP, or any "one-stop partner" under the Workforce Investment Act of 1998.

**P. Staff, Facilities and Equipment.** To maintain sufficient staff, facilities and equipment to deliver the goods and services described in this Contract, and to immediately notify the DOE/DVR whenever Contractor is unable or is going to be unable to provide the required quality or quantity of goods or services. In addition, all facilities or other places of business used in the delivery of services must comply with the design and construction accessible to the physically handicapped per "Architectural Barriers Act of 1968" Section 504 of the Act and ADA.

**Q. Authority of Person Executing Contract.** Contractor represents that the person executing this Contract (and any portion thereof) has the actual authority to so execute on behalf of Contractor and that all actions, corporate or otherwise, necessary to such authority have occurred.

**R. Relationship of Customer to DOE/DVR.** If the Contractor is hiring or placing for employment any customer of DOE/DVR pursuant to the terms of this Contract, such customer is not an employee of DOE/DVR for any purpose, whatsoever, including without limitation the provision of workers' compensation benefits. Contractor shall notify the employer of this fact.

**S. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and Acknowledgment and Representation regarding the Convicted Vendors List.**

1. If the amount of federal funds received by Contractor hereunder exceeds \$25,000, the

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Contractor:

a. Certifies, by signing this Contract, that neither the Contractor nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency and, if the Contractor is unable to certify to any of the statements contained in this section, Contractor shall attach an explanation to this Contract;

b. Acknowledges and agrees this certification is a material representation of fact upon which reliance is placed when this Contract is entered into. If it is later determined that the signer or Contractor knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment;

c. Agrees to provide immediate written notice to the Contract Manager at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances;

d. Acknowledges and agrees the terms "debarred," "suspended," "ineligible," "person," "principal," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage section of rules implementing Executive Order 1254, Debarment and Suspension, signed February 18, 1986. Contractor may contact the Contract Manager for assistance in obtaining a copy of these rules and regulation.

e. Agrees by submitting this certification that it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract unless authorized by the Federal Government; and

f. Agrees it will require each person or entity subcontracted under this Contract receiving payment of \$25,000 or more in federal monies to submit a signed copy of this certification to DOE/DVR.

2. If the amount of federal funds received by Contractor hereunder exceeds \$100,000, the undersigned, on behalf of himself/herself and the Contractor, certifies to the best of his or her knowledge and belief that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned or the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a

member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement;

b. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, in connection with this Federally funded agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The undersigned and Contractor acknowledge THIS CERTIFICATION IS A MATERIAL REPRESENTATION OF FACT UPON WHICH RELIANCE WAS PLACED WHEN THIS CONTRACT WAS MADE OR ENTERED INTO. SUBMISSION OF THIS CERTIFICATION IS A PREREQUISITE TO MAKING OR ENTERING THIS CONTRACT IMPOSED BY SECTION 1352, TITLE 31, U.S. CODE. ANY PERSON WHO FAILS TO FILE THE REQUIRED CERTIFICATION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$10,000 AND NOT MORE THAN \$100,000 FOR EACH SUCH FAILURE.

3. If the amount of funds to be received by Contractor hereunder exceeds the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO, the undersigned, on behalf of himself/herself, the Contractor, and any affiliate thereof, acknowledges and represents that, as defined and described in Section 287.133, Florida Statutes, persons or affiliates placed on the convicted vendor list-following a conviction for a public entity crime may not be awarded or perform the work under this Contract and that neither the undersigned, the Contractor, nor any affiliate thereof had been placed on the above-

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referenced convicted vendor list within thirty-six (36) months prior to the effective date of this Contract.

**T. Vendor Certification.** The DOE/DVR adopts the standards for vendor qualifications as those established by Florida Statutes, national certification boards and industries that are applicable. When a vendor is employed in an occupation for which national, state or industry standards have not been established, the DVR may adopt standards, as it deems appropriate, to ensure the provision of quality services to individuals with disabilities. An appeals process shall be developed to include the DVR as the final authority. (Adopted July 12, 2001.) The Contractor and any subcontractors shall comply with the DVR vendor certification standards applicable to the services for which it is contracting and shall maintain such-certification throughout the term of the contract.

**U. My Florida Market Place** All prospective vendors are required to register online with the My Florida marketplace (MFMP) E-procurement system in order to become certified with DVR. Vendor registration can be completed by visiting the MFMP website at <https://vendor.myfloridamarketpalce.com/>. For additional information or questions, the prospective vendor should contact the MFMP customer service help desk at 1-866-FLA-EPRO (1-866-352-3776) Registration must take place prior to completing the-DVR Standard Vendor Application process.

### **III. THE DOE/DVR Agrees**

#### **A. Contract Amount.**

1. To pay for contracted services in an amount not to exceed the Contract Amount as stated in the Contract, subject to the availability of funds. If the Legislature fails to make the necessary appropriation, the Department will determine if there are other unencumbered funds which are available and which can be lawfully expended to pay for the DOE/DVR's obligations hereunder. If the DOE/DVR determines that there are no such funds, the DOE/DVR shall promptly notify the Contractor. The giving of notice shall be deemed to have cancelled this Contract by mutual consent, with the date of notice being the date of cancellation.
2. The State of Florida's performance and obligation to

pay under this Contract is contingent upon an annual appropriation by the Legislature.

3. Contractor shall not be paid under this Contract for any services for which it is paid under any other contract or from any other source.

4. Except as may otherwise be expressly stated in this Contract, DOE/DVR shall not be obligated to pay any amount for expenses, services rendered, or goods provided prior to the effective date of this Contract or for which an invoice for payment has not been submitted consistent with III. B.

#### **B. Contract Payment.**

1. Pursuant to Section 215.422, Florida Statutes, and not later than twenty (20) days after the receipt of the invoice and receipt, inspection and approval of the services, to file with the State Comptroller the voucher authorizing payment of an invoice submitted to DOE/DVR. Submission is to be contingent upon inspection and approval of the goods or services, except that, in the case of a bona fide dispute, the voucher shall contain a statement of the dispute and authorize payment only in the amount not disputed. Such approval is for authorizing payments and does not constitute a final approval of services purchased under this Contract. The date on which an invoice is deemed received is the date on which a properly completed invoice is first received at the place designated by DOE/DVR. A payment is deemed to be issued on the first working day that payment is available for delivery or mailing to the Contractor.

2. If a warrant in payment of an invoice is not issued within forty (40) days after the receipt of the invoice and receipt, inspection, and approval of the services, DOE/DVR shall pay to the Contractor, in addition to the amount of the invoice, interest at the relevant rate authorized under Section 215.422, Florida Statutes, or pay the separate interest penalty set by the Comptroller pursuant to s. 55.03 Florida Statutes in addition to the invoice amount. The Contractor should contact DOE's Fiscal section at 850-245-0402 or Purchasing Office at 850-245-9170. Invoices returned to Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to DOE/DVR.

**C. Comptroller's Hotline.** Vendors who may be experiencing problems in obtaining timely payment(s)

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from a state agency may contact the Vendor Ombudsman at 1-866-515-3962 or the State Comptroller's Hotline at 1-800-451-4327. This paragraph is being provided for notice purposes only.

D. Website. DOE/DVR's website is <http://www.rehabworks.org>. Documents on this website are updated to reflect the most recent version(s) available.

**IV. The Contractor and DOE/DVR Mutually Agree:**

**A. Cancellation**

1. Cancellation at Will. DOE/DVR with or without cause may cancel this Contract upon no less than thirty- (30) days notice.

2. Cancellation Because of Lack of Funds. In the event funds to meet DOE/DVR's obligations hereunder become unavailable, the DOE/DVR may, at its discretion, suspend or cancel the Contract upon no less than twenty-four (24) hours notice in writing to the Contractor. In the event the DOE/DVR chooses to exercise its cancellation option under this section, neither party hereto shall have any further rights or obligations hereunder. In the event the DOE/DVR suspends this Contract but does not reinstate it before the end of the Contract term; such suspension shall be considered an exercise of the DOE/DVR cancellation option.

3. Cancellation for Breach. The DOE/DVR may cancel this Contract for reasons of the Contractor's non-performance upon no less than thirty-(30) days notice in writing to the Contractor. If applicable, DOE/DVR may employ the default provisions in Chapter 60A1.006(3), Florida Administrative Code. Waiver of breach of any provisions of this Contract shall not be deemed a waiver of any modification of the term of this Contract. The provisions herein do not limit DOE/DVR's rights to remedies at law or in equity.

4. Failure to have performed any Contract obligation with DOE/DVR in a manner satisfactory to the DOE/DVR will be a sufficient cause for cancellation and termination of Contractor's status. To be terminated as a Contractor under this provision, the Contractor must 1) have previously failed to satisfactorily perform in a Contract with the DOE/DVR; 2) have been notified by DOE/DVR of unsatisfactory performance, and have failed to correct the unsatisfactory performance to the satisfaction of

DOE/DVR; and 3) have had a contract terminated by DOE/DVR for cause.

5. Cancellation pursuant to Section II. C. 6. DOE/DVR may cancel for Contractor's refusal to allow access to public documents, etc. that are made or received in conjunction with the Contract that are subject to Chapter 119, Florida Statutes and not otherwise exempt from public inspection.

6. Cancellation for employment of unauthorized aliens. The employment of unauthorized aliens by any Contractor is considered a violation of Section 274 (e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Contract.

**B. Re-negotiation or Modification.**

1. Modification of provisions of this Contract shall only be valid when they have been reduced to writing and duly signed by both parties. The Rate of Payment and the total dollar amount may be adjusted to reflect price level increases and changes in the Rate of Payment when these have been established through the appropriations process subsequently identified in DOE/DVR's budgets.

2. In the event that the Governor and Cabinet are required to impose a mandatory reserve on appropriations, the Department shall amend this Contract to place in reserve the amount determined by DOE/DVR to be necessary because of the mandatory reserve. Such amendments may provide for adjustments in the deliverable products and services as may be necessary.

C. Notice and Contact. All notices to DOE/DVR and invoices for payment should be directed to the attention of the Contract Liaison. All notices to Contractor and payments under this Contract shall be directed to Contractor's Contract Representative. In the event that a different Contract Liaison or Contractor's Contract Representative is designated after execution of this Contract, notice of the name and address of the new Liaison or Representative shall be sent in writing within thirty (30) days of such change. The Contractor shall keep DOE/DVR informed of its current telefax number at all times. Unless otherwise provided herein, any notice to be given hereunder shall be in writing and shall be sent by hand-delivery,

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overnight mail, by U.S. certified mail, postage prepaid, return receipt requested or by telefax. Any notice given by properly addressed and stamped U.S. certified mail, return receipt requested, shall be deemed to be given three (3) days following the date of mailing. Notice by overnight mail shall be deemed to be given one (1) day after such mailing. Notice by telefax shall be deemed to constitute notice by hand-delivery.

**D. Remedies of the DOE/DVR Cumulative.** In addition to all remedies available to DOE/DVR hereunder, in the event Contractor breaches its obligations under this Contract, DOE/DVR shall be entitled to exercise any remedy available or provided under Florida law. All rights and remedies granted in this Contract to the DOE/DVR and available at law or equity shall be cumulative and not mutually exclusive.

**E. Non-waiver of Defaults.** Failure of DOE/DVR to declare any default immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default. DOE/DVR shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, in law or in equity. No waiver of any term, provision, condition or covenant of this Contract by DOE/DVR shall be deemed to imply or constitute a further waiver by DOE/DVR of any other term, provision, condition or covenant of this Contract. No payment by DOE/DVR shall be deemed a waiver of any default hereunder.

**F. Captions; Governing Law.**

1. This Contract shall be governed by and construed in accordance with Florida law. Caption headings are inserted for convenience only and shall be ignored in interpreting the provisions of this Contract.
2. Venue for purposes of any action brought to enforce or construe the Contract shall lie in Leon County, Florida.

**G. Mutual Drafting and Negotiation.**

1. Both parties agree that, in the event of a dispute over this Contract, the provisions hereof shall be construed to give meaning to the intention of the parties.
2. The Contractor and DOE/DVR acknowledge that

they have had their respective attorneys review and approve this Contract or that they have had the opportunity to do so.

**H. All Terms and Conditions Included.** This Contract and its attachments as referenced contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or Contracts, either verbal or written between the parties. If any terms or provisions of the Contract are found illegal or unenforceable, the remainder of the Contract shall remain in full force and effect and the terms of provisions shall be stricken.

# Appendix

## I

### *Attachment C – Blind Services*

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**I. Composition of Contract; Entire Contract; No Modifications Except in Writing.** The agreement between the Department of Education/Division of Blind Services (DOE/DBS) and Contractor concerning the subject matter hereof consists of the Contract, this Attachment and all other attachments and exhibits referenced herein or in the Contract. **In the event there is any inconsistency between the provisions of the Contract and the provisions of this Attachment or any other attachment or exhibit, the provisions of the Contract shall govern and control.** The Contract, this Attachment and all other attachments and exhibits referenced herein or in the Contract may be referred to collectively as the "Contract." The Contract represents the total and complete agreement of DOE/DBS and Contractor relating to the subject matter of the Contract. The Contract supersedes any prior or contemporaneous written or oral agreements or representations relating to the subject matter of the Contract. No purported modification of the Contract shall be valid or binding on either party unless such modification is contained in a document executed by both parties.

**II. The Contractor Agrees:**

**A. Contractual Services.** To provide all the services it is obligated to provide as specified in the Contract.

**B. Federal and State Laws and Regulations**

1. If this Contract provides for payment, in whole or in part, with federal funds, to comply with the applicable provisions of 34 CFR, Parts 74 and 80, all applicable OMB Circulars, and other applicable regulations specified in this Contract.

2. If this Contract provides for payment of federal funds exceeding \$100,000, to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, (42 USC 1857 [h]) as amended, and to comply with Section 508 of the Clean Water Act (33 USC 1368) Executive Order 11738 and Environmental Protection Agency Regulations (40 CFR, Part 15).

3. If this Contract provides for payment of federal funds exceeding \$10,000, to comply with Executive order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the Department of Labor Regulations (41 CFR, Part 60)[45 CFR, Part 92].

4. To comply with all applicable laws, statutes and regulations of the State of Florida and the United States, and to complete any forms required under such laws, statutes and regulations, whether or not such forms are referenced in this Contract.

**C. Audits and Records.**

To maintain (in accordance with generally accepted accounting procedures) and retain, during and for five (5) years after termination of this Contract, books, records and all other documents relating to this Contract. Such will

2. sufficiently and properly reflect all expenditures of funds provided by DOE/DBS under this Contract (collectively, the "Records"). If an audit has been initiated and audit findings have not been resolved at the end of such three- (3) year period, Contractor shall retain the Records until resolution of the audit findings.

2. To assure that state personnel, federal personnel and personnel authorized by the DOE/DBS shall have full access to the Records during the time Contractor is obligated to retain same.

3. To provide access to and, at the request of DOE/DBS, to furnish whatever information is deemed necessary by DOE/DBS to be assured of satisfactory performance of the terms and conditions of the Contract. This includes access to financial reports, personnel and personnel work records. Any written comments from DOE/DBS to the Contractor regarding deficiencies in Contractor's performance must be responded to by the Contractor within the time specified in such comments. The Contractor shall either rectify such deficiencies or supply a reasonable written justification for not correcting such deficiencies.

4. The contractor agrees to permit onsite visits by designated DOE/DBS employees or agents to conduct audits to ensure compliance with Section 20.055, Florida Statutes. These audits may require department access to records and data, computers and communications devices and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc.) that may be produced, transmitted, or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.

5. To file with the DOE/DBS such Records as the DOE/DBS may require (in its sole discretion) within one (1) year after the completion of performance under this Contract.

6. To allow public access to all documents, papers, letters, or other materials made or received by Contractor in conjunction with this Contract, subject to the provisions of Chapter 119, Florida Statutes, §11 (F) below and other applicable law. DOE/DBS may unilaterally cancel this Contract if the Contractor refuses to allow access by members of the public to all documents, papers, letters and materials made or received in conjunction with the Contract that are subject to Chapter 119, Florida Statutes, and are not exempt from public inspection by **Section 119.071** Florida Statute and other provisions of general or special law.

7. To submit all invoices for payment for services or expenses in a form acceptable to the DOE/DBS and in detail sufficient for proper pre-audit and post-audit thereof.

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8. In accordance with the provisions of OMB Circular A-133, as revised, in the event that it expends equal to or in excess of the Federal thresholds for awards in its fiscal year and is otherwise subject to OMB Circular A-133, to have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards, expended in its fiscal year, the Contractor shall consider all sources of Federal awards, including Federal funds received from DOE/DBS. The determination of amount of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirement of this part.

9. In connection with the audit requirements addressed above in Section II, Paragraph 7, to fulfill the requirements relative to auditee responsibilities as provided in Subpart c of OMB Circular A-133, as revised.

10. If it expends less than the Federal threshold for awards in its Fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised is not required. In the event that the Contractor expends less than the Federal threshold for awards in its fiscal year and elects to have an audit conducted in accordance with the provision of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from funds obtained from other than Federal entities.)

11. In accordance with 215.97, Florida Statutes, applicable rules of the Office of the Governor and the Comptroller, if it expends a total amount of State awards (i.e., State Financial assistance provided to the Contractor to carry out a State project) equal to or in excess of the State threshold for awards in any fiscal year of such Contractor, and is otherwise subject to 215.97, Florida Statutes, to have a single State or project-specific audit for such fiscal year. In connection with the audit requirements addressed in paragraph 10, the Contractor shall ensure the audit complies with the requirements of 215.97(7) Florida Statutes. This includes submission of a reporting package as defined by 215.97(2)(d), Florida Statutes.

12. If it expends less than the State threshold for awards in its fiscal year, an audit conducted in accordance with the provisions of 215.97, Florida Statutes, is not required. In the event that the Contractor expends less than the State threshold awards in its fiscal year and elects to have an audit conducted in accordance with the provision of 215.97, Florida Statutes, the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from the funds obtained from other than State entities.)

**D. Monitoring by DOE/DBS.**

1. To permit persons duly authorized by the DOE/DBS, state and federal auditors full access to and the right to examine any of said records and documents at all reasonable times during the period of this Contract, during said retention period or as long as records retained, which ever is later. Those persons authorized to do so shall be entitled to inspect any records, papers, documents, facilities, or services of the Contractor relevant to this Contract and may interview Contractors of services and employees of the Contractor to be assured of satisfactory performance of the terms and conditions of the Contract. Following such inspection DOE/DBS shall deliver to the Contractor a written report of the findings, including specifically any noted deficiencies concerning the manner in which services are being provided. The Contractor will correct all noted deficiencies identified by the DOE/DBS within the specified period set forth in the recommendations.

2. In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, monitoring procedures may include, but not be limited to, on site visits by DOE/DBS, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering this Contract, the Contractor agrees to comply and cooperate with any monitoring procedures/process deemed appropriate by the DOE/DBS. In the event, DOE/DBS determines that a limited scope audit of the Contractor is appropriate, the Contractor agrees to comply with any additional instructions provided by DOE/DBS regarding such audit. The Contractor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits necessary by the Comptroller or the Auditor General or other authorized body.

**E. Indemnification.** Unless Contractor is an agency of the State of Florida, to indemnify, defend, and hold harmless DOE/DBS, its attorneys, agents, and employees, to the full extent allowed by law, from all claims, suits, judgments, debts, or damages, arising out of Contractor's performance or failure to perform under this contract, the negligent acts, negligent omissions or willful conduct of the Contractor relating to this Contract. The indemnification shall include reasonable attorney's fees and costs incurred by the DOE/DBS, its attorneys, agents and employees in the defense of any such suits, claims, or causes of action, as aforesaid. Nothing in this Contract is intended to serve as a waiver of sovereign immunity, nor shall anything in this Contract be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement.

**F. Insurance.** To provide adequate liability insurance coverage on a comprehensive basis which coverage shall

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be in force at all times during the term of this Contract. Upon Contractor's execution of this Contract, Contractor shall furnish DOE/DBS with written evidence, acceptable to DOE/DBS, of the existence of such insurance coverage. If the Contractor is a county or municipality, to furnish to DOE/DBS written verification of liability coverage in accordance with Section 768.28, Florida Statutes.

**G. Safeguarding Information.**

- 1) Not to use or disclose any information concerning any Contractor of services under or incident to this Contract for any purpose not in conformity with state regulations and Federal law or regulations (45 CFR, Part 205.50, 34 CFR PART 361.38 and other applicable laws), except upon written consent of the Contractor, or the responsible parent or guardian when authorized by law.
- 2) The Contractor is subject to all provisions of confidentiality of client records as set forth in § 413.012, Florida Statutes.

**H. Assignments and Subcontracts.**

1. The Contractor may assign or delegate obligations under this Contract to another party and may subcontract for any work contemplated under this Contract only with a DOE/DBS approved vendor and, with the written approval of DOE/DBS. The Contractor is solely liable for the performance of all obligations outlined in this Contract, which are not the exclusive responsibilities of the DOE/DBS. The Contractor shall provide written disclosure of its intention to subcontract all or part of its obligations under the Contract at or before the conclusion of the DOE/DBS vendor certification audit, or subsequently, before any sub-contracting may occur.
2. In the event the Contractor subcontracts all or any portion of its obligations under this Contract:
  - a. The Contractor shall monitor the subcontractor or assignee and establish controls to avoid or mitigate risks identified by DOE/DBS and the Contractor, and
  - b. The Contractor shall allow the DOE/DBS to monitor subcontractor or assignee activity and compliance, and the Contractor shall require the subcontractor or assignee to promptly submit to the DOE/DBS, at DOE/DBS's request, complete and accurate documentation pertaining to the subcontract or the Contract.
3. The Contractor's subcontractor shall be bound by the terms of this Contract and all applicable laws and regulations.
4. After the execution of the Contract, if a subcontract is found to be in violation of federal/state rules and regulations, the Contractor will be considered to be in breach of contract.

**I. Return of Funds** (Over payments and Interest Penalty)  
The Contractor agrees to return to DOE/DBS any

overpayment due to unearned funds or funds disallowed pursuant to the terms of this Contract, the Vocational Rehabilitation Act of 1973, as amended, or appropriate state, federal regulations, rules and/or laws. In the event that the Contractor or its independent auditor discovers that an overpayment has been made, the Contractor shall repay said overpayment immediately together with an explanation of the funds returned. The return shall be due within forty-five (45) days following the expiration or early termination of this Contract, or within ten (10) days after the overpayment is discovered, whichever is sooner. If Contractor fails to timely repay such funds, the Contractor shall pay to DOE/DBS, in addition to such funds, interest at the rate set pursuant to Section 55.03, Florida Statutes. Interest shall immediately begin to accrue on the unpaid principal balance at the highest rate allowable by applicable laws, through the date on which such funds are fully repaid.

**J. Unusual Incident Reporting.** If services to customers will be provided under this Contract, to report to DOE/DBS and the Florida Abuse Hotline knowledge of reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult. The Florida Abuse Hotline's statewide toll-free telephone number is 1-800-962-2873. Such reporting to be done in a manner prescribed in Chapter 415, Florida Statutes. This is binding upon both the Contractor and its employees.

**K. Transportation Disadvantaged.** If customers will be transported under this Contract, to subcontract with the designated Community Coordinated Transportation Contractor, or otherwise comply with the provisions of Chapter 427, Florida Statutes.

**L. Purchasing.** To purchase articles which are the subject of, or required to carry out, this Contract from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) identified under Chapter 946, Florida Statutes, in the manner and under the procedures set forth in Sections 946.515(2) and (4), Florida Statutes. For purposes of this Contract, the Contractor shall be deemed to be substituted for DOE/DBS insofar as dealings with PRIDE. The preceding sentence shall be construed to mean solely that if DOE/DBS would be obligated to purchase the property necessary under this Contract from PRIDE, Contractor shall be obligated to purchase such property from PRIDE. This clause is not applicable to subcontractors of the Contractor unless otherwise required by law.

**M. Civil Rights Certification.**

1. To comply with:  
Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or

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- b. national origin in programs and activities receiving or benefiting from federal financial assistance.
- b. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability in programs and activities receiving or benefiting from federal financial assistance.
- c. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of gender in education programs and activities receiving or benefiting from federal financial assistance.
- d. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.
- e. The Omnibus Budget Reconciliation Act of 1981, which prohibits discrimination on the basis of gender or religion in programs and activities receiving or benefiting from federal financial assistance.
- f. Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination with respect to employment, compensation, and terms and conditions of employment on the basis of race, color, religion, gender, or national origin.
- g. Florida Human Relations Act, which prohibits discrimination on the basis of race, color, religion, gender, national origin, age, disability, or marital status.
- h. Americans with Disabilities Act, which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, state and local government services, and in telecommunications.
- i. All other applicable laws, regulations and standards that prohibit discrimination on any basis on which discrimination is prohibited by any of the above-referenced laws.

**N. Independent Capacity of the Contractor.**

- 4. To be solely liable for the performance of all tasks contemplated by this Contract which are not the exclusive responsibilities of DOE/DBS.
  - 5. To act in the capacity of an independent contractor and not as an officer, employee or agent of the State of Florida, except where the Contractor is a state agency. The Contractor shall not represent to others that it has the authority to bind DOE/DBS unless specifically authorized in writing to do so. In addition to the Contractor, this is also applicable to its officers, agents, employees, subcontractors, or assignees in performance of this Contract.
  - 6. Except where the Contractor is a state agency, neither the Contractor, its officers, agents, employees, subcontractors, nor assignees are entitled to state retirement or state leave benefits, or to any other compensation of state employment as a result of performing the duties and obligations of this Contract.
- To take such actions as may be necessary to ensure

- 7. that each subcontractor of the Contractor will be deemed an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.
- 8. The DOE/DBS will not furnish services or support (e. g., office space, office supplies, telephone service, secretarial or clerical support) to Contractor or its subcontractor or assignee.
- 9. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds and all necessary insurance for the Contractor, the Contractor's officers, employees, agents, subcontractors, or assignees shall be the responsibility of the Contractor.

**O. Travel Reimbursement.** Travel expenses will be reimbursed only as expressly authorized by the terms of the Contract. Contractor will submit bills for any travel expenses in accordance with and subject to the reimbursement rate limitations of Section 112.061, Florida Statutes.

**P. Sponsorship.** As required by Section 286.25, Florida Statutes, that all notices, informational pamphlets, press releases, advertisements, descriptions of sponsorship of the program research reports, and similar public notices prepared and released by the Contractor shall include the statement: "Sponsored by DOE/DBS and the State of Florida." If the sponsorship reference is in written material, the words "State of Florida, Department of Education/ Division of Blind Services" shall appear in the same size type and emphasis as the name of Contractor or other applicable organization.

**Q. Invoices.**

- 2. The Contractor shall submit properly completed monthly invoices in detail sufficient for a proper preaudit and postaudit thereof and in a form acceptable to the DOE/DBS covering services rendered and/or goods provided under this Contract together with expenditure reports to support all requests for payment. Invoices must be submitted within fifteen (15) days following the end of the month for which payment is requested. These invoices shall be on Contractor's letterhead and must state the total number of customers who received services, the date(s) the services were provided, together with the names of clients served during the payment period. Payments may be authorized only for services listed on the invoice, which are in accord with terms and conditions of this Contract. This requirement shall in no way affect the Final Invoice (Withholding Payment) requirements.
- Final Invoice (Withholding Payment). The Contractor must submit the final invoice for payment to the DOE/DBS no more than sixty (60) days after the Contract ends or is terminated. If the Contractor fails to do so, all rights to

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3. payment is forfeited and the DOE/DBS will not honor any requests submitted after the aforesaid time period unless a written request for extension is received prior to the sixty (60) day deadline. The DOE/DBS Contract Manager shall review all payment requests of the Contractor in a manner that will allow the Contractor to submit an invoice within sixty (60) days. If the final invoice cannot be submitted within the required sixty (60) days period, the Contractor must submit a written request for extension, to the Contract Manager, prior to the sixty (60) day deadline. The request must include a description of the circumstances beyond the Contractor's control that resulted in a need for additional time for the submission of the invoice. The DOE/DBS Contract Managers shall respond to these requests within ten (10) days after receipt of the request.

4. Any payment due under the terms of this Contract may be withheld until all reports due from the Contractor and necessary adjustments thereto, have been approved by the DOE/DBS. The DOE/DBS has final authority on any dispute on invoice payments.

5. The Contractor represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best of knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of s. 68.082, Florida Statutes, pertaining to false claims against the state and /or s. 837.06, Florida Statutes pertaining to false official statements.

**R. Lobbying, Fund-raising and Program Income.**

1. To comply with §216.347, Florida Statutes, which prohibits expenditure of contract funds for lobbying the Legislature or a state agency. Fund raising activities shall not be charged to, or reimbursed from, any DOE/DBS Contract proceeds. Program income shall be used, at the direction of the DOE/DBS to either reduce the Contract award or fund additional services eligible for State and Federal funding. For purposes of this Contract, "program income" shall mean gross income received by Contractor directly generated by a grant supported activity, or earned as a result of this Contract during the term of this Contract. If any payment due under this Contract results directly from a budget line item submitted by Contractor and Contractor's actual costs or expenditures during the Contract term are less than the amount budgeted, the resulting excess payment shall be deemed, for purposes of this Contract, "program income."

2. To inform DOE/DBS immediately if they are or become a party to any contract with any State of Florida Department or any "one-stop partner" under the Workforce Investment Act of 1998.

**S. Staff, Facilities and Equipment.** To maintain sufficient

staff, facilities and equipment to deliver the goods and services described in this Contract, and to immediately notify the DOE/DBS whenever Contractor is unable or is going to be unable to provide the required quality or quantity of goods or services. In addition, all facilities used in the delivery of services must comply with the design and construction accessible to the physically handicapped per "Architectural Barriers Act of 1968" Section 504 of the Act and ADA.

**T. Authority of Person Executing Contract.** Contractor represents that the person executing this Contract (and any portion thereof) has the actual authority to so execute on behalf of Contractor and that all actions, corporate or otherwise, necessary to such authority have occurred.

**U. Time of the Essence Regarding Obligations of Contractor.** Time is of the essence with regard to each and every obligation of Contractor contained in this Contract. Each such obligation is deemed material, and a breach of any such obligation, including a breach resulting from the untimely performance thereof, shall constitute a material breach of this Contract.

**V. Relationship of Customer to DOE/DBS.** If the Contractor is hiring or placing for employment any customer of DOE/DBS pursuant to the terms of this Contract, such customer is not an employee of DOE/DBS for any purpose, whatsoever, including without limitation the provision of workers' compensation benefits. Contractor shall notify the employer of this fact.

**W. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and Acknowledgment and Representation regarding the Convicted Vendors List.**

1. If the amount of federal funds received by Contractor hereunder exceeds \$25,000, the Contractor:

a. Certifies, by signing this Contract, that neither the Contractor nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency and, if the Contractor is unable to certify to any of the statements contained in this section, Contractor shall attach an explanation to this Contract;

b. Acknowledges and agrees this certification is a material representation of fact upon which reliance is placed when this Contract is entered into. If it is later determined that the signer or Contractor knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment;

c. Agrees to provide immediate written notice to the

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Contract Manager at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances;

d. Acknowledges and agrees the terms "debarred," "suspended," "ineligible," "person," "principal," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage section of rules implementing Executive Order 1254, Debarment and Suspension, signed February 18, 1986. Contractor may contact the Contract Manager for assistance in obtaining a copy of these rules and regulation.

e. Agrees by submitting this certification that it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract unless authorized by the Federal Government; and

f. Agrees it will require each person or entity subcontracted under this Contract receiving payment of \$25,000 or more in federal monies to submit a signed copy of this certification to DOE/DBS.

2. If the amount of federal funds received by Contractor hereunder exceeds \$100,000, the undersigned, on behalf of himself/herself and the Contractor, certifies to the best of his or her knowledge and belief that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned or the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement;

b. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, in connection with this Federally funded agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The undersigned and Contractor acknowledge THIS CERTIFICATION IS A MATERIAL REPRESENTATION OF FACT UPON WHICH RELIANCE WAS PLACED WHEN THIS CONTRACT WAS MADE OR ENTERED INTO. SUBMISSION OF THIS CERTIFICATION IS A

PREREQUISITE TO MAKING OR ENTERING THIS CONTRACT IMPOSED BY SECTION 1352, TITLE 31, U.S. CODE. ANY PERSON WHO FAILS TO FILE THE REQUIRED CERTIFICATION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$10,000 AND NOT MORE THAN \$100,000 FOR EACH SUCH FAILURE.

3. If the amount of funds to be received by Contractor hereunder exceeds the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO, the undersigned, on behalf of himself/herself, the Contractor, and any affiliate thereof, acknowledges and represents that, as defined and described in Section 287.133, Florida Statutes, persons or affiliates placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or perform the work under this Contract and that neither the undersigned, the Contractor, nor any affiliate thereof had been placed on the above-referenced convicted vendor list within thirty-six (36) months prior to the effective date of this Contract.

**III. THE DOE/DBS Agrees**

**A. Contract Amount.**

1. To pay for contracted services in an amount not to exceed the Contract Amount as stated in the Contract, subject to the availability of funds. If the Legislature fails to make the necessary appropriation, the Department will determine if there are other unencumbered funds which are available and which can be lawfully expended to pay for the DOE/DBS's obligations hereunder. If the DOE/DBS determines that there are no such funds, the DOE/DBS shall promptly notify the Contractor. The giving of notice shall be deemed to have cancelled this Contract by mutual consent, with the date of notice being the date of cancellation.

2. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

3. Contractor shall not be paid under this Contract for any goods or services for which it is paid under any other contract or from any other source.

4. Except as may otherwise be expressly stated in this Contract, DOE/DBS shall not be obligated to pay any amount for expenses, services rendered, or goods provided prior to the effective date of this Contract or for which an invoice for payment has not been submitted consistent with II. B.

**B. Contract Payment.**

1. Pursuant to Section 215.422, Florida Statutes, and not later than twenty (20) days after the receipt of the invoice and receipt, inspection and approval of the goods or services, to file with the State Comptroller the voucher authorizing payment of an invoice submitted to DOE/DBS. Submission is to be contingent upon inspection and

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approval of the goods or services, except that, in the case of a bona fide dispute, the voucher shall contain a statement of the dispute and authorize payment only in the amount not disputed. Such approval is for authorizing payments and does not constitute a final approval of services purchased under this Contract. The date on which an invoice is deemed received is the date on which a properly completed invoice is first received at the place designated by DOE/DBS. A payment is deemed to be issued on the first working day that payment is available for delivery or mailing to the Contractor. If a warrant in payment of an invoice is not issued within forty (40) days [thirty-five (35) days for health care Contractors] after the receipt of the invoice and receipt, inspection, and approval of the goods and services, DOE/DBS shall pay to the Contractor, in addition to the amount of the invoice, interest at the relevant rate authorized under Section 215.422, Florida Statutes or pay the separate interest penalty set by the Comptroller pursuant to s. 55.03 Florida Statutes in addition to the invoice amount. The Contractor should contact DOE's Fiscal section at 850-487-2460 or Purchasing Office at 850-488-4336.

Invoices returned to Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to DOE/DBS.

**C. Comptroller's Hotline.** Vendors who may be experiencing problems in obtaining timely payment(s) from a state agency may contact the Vendor Ombudsman at 850-488-2924 or the State Comptroller's Hotline at 1-800-848-3792. This paragraph is being provided for notice purposes only.

**IV. The Contractor and DOE/DBS Mutually Agree:**

**A. Performance Based Payments.**

1. Definitions: "Benchmarks" are express conditions precedent to payment of a stated percentage of the Rate.

a. "Carryover" is a DOE/DBS customer to whom the Contractor provided services under a prior contract (or contract year, as appropriate), who achieved some but not all of the Benchmarks for payment and for whom funds for payment of remaining Benchmark payments are provided under the Contract.

b. "Input " consists of the resources used to produce goods and services.

c. "Outcome" is a measure of the quantified result, impact, or benefit of a program/s task on customers or users of the services.

d. "Output" consists of the actual services delivered by the Contractor.

"Performance measure" is a quantitative indicator of the work performance and the results achieved. It is used to assess a Contractor's performance in achieving positive results on tasks that are considered necessary to

e. accomplish an outcome or outcomes.

f. "Performance Standard" is a specified desired level or goal for a particular performance measure. A standard is the quantified level of performance to be achieved.

g. "Rate" means the total amount due to the Contractor for each customer referred by DOE/DBS for whom the Contractor provides all required specific identified services and the customer achieves all Benchmarks for such services.

2. The Contractor shall be entitled to each performance-based payment at the Rate and times specified in the Contract. Notwithstanding anything contained in the Contract to the contrary, the Contractor acknowledges the DOE/DBS has made no statements or agreements regarding the number of DOE/DBS customers who will be referred by DOE/DBS to Contractor during the term of the Contract.

**B. Cancellation**

1. Cancellation at Will. DOE/DBS with or without cause may cancel this Contract upon no less than thirty- (30) day's notice.

2. Cancellation Because of Lack of Funds. In the event funds to meet DOE/DBS's obligations hereunder become unavailable, the DOE/DBS may, at its discretion, suspend or cancel the Contract upon no less than twenty-four (24) hours' notice in writing to the Contractor. In the event the DOE/DBS chooses to exercise its cancellation option under this section, neither party hereto shall have any further rights or obligations hereunder. In the event the DOE/DBS suspends this Contract but does not reinstate it before the end of the Contract term; such suspension shall be considered an exercise of the DOE/DBS cancellation option.

3. Cancellation for Breach. The DOE/DBS may cancel this Contract for reasons of the Contractor's non-performance upon no less than thirty-(30) days notice in writing to the Contractor. If applicable, DOE/DBS may employ the default provisions in Chapter 60A1.006(3), Florida Administrative Code. Waiver of breach of any provisions of this Contract shall not be deemed a waiver of any modification of the term of this Contract. The provisions herein do not limit DOE/DBS's rights to remedies at law or in equity.

4. Failure to have performed any Contract obligation with DOE/DBS in a manner satisfactory to the DOE/DBS will be a sufficient cause for cancellation and termination of Contractor's status. To be terminated as a Contractor under this provision, the Contractor must 1) have previously failed to satisfactorily perform in a Contract with the DOE/DBS; 2) been notified by DOE/DBS of unsatisfactory performance, and have failed to correct the unsatisfactory performance to the satisfaction of DOE/DBS; and 3) had a contract terminated by DOE/DBS for cause.

5. Cancellation pursuant to Section II. C. 5. DOE/DBS may cancel for Contractor's refusal to allow access to public

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documents, etc. that are made or received in conjunction with the Contract that are subject to Chapter 119, Florida Statutes and not otherwise exempt from public inspection.

**6.Cancellation for employment of unauthorized aliens.** The employment of unauthorized aliens by any Contractor is considered a violation of Section 274 (e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Contract.

**C. Re-negotiation or Modification.** 1.Modification of provisions of this Contract shall only be valid when they have been reduced to writing and duly signed by both parties. The Rate of Payment and the total dollar amount may be adjusted to reflect price level increases and changes in the Rate of Payment when these have been established through the appropriations process subsequently identified in DOE/DBS's budgets.

2. In the event that the Governor and Cabinet are required to impose a mandatory reserve on appropriations, the Department shall amend this Contract to place in reserve the amount determined by DOE/DBS to be necessary because of the mandatory reserve. Such amendments may provide for adjustments in the deliverable products and services as may be necessary.

**D. Notice and Contact.** All notices to DOE/DBS and invoices for payment should be directed to the attention of the Contract Manager. All notices to Contractor and payments under this Contract shall be directed to Contractor's Contract Representative. In the event that a different Contract Manager or Contractor's Contract Representative is designated after execution of this Contract, notice of the name and address of the new manager or representative shall be sent in writing within thirty (30) days of such change. The Contractor shall keep DOE/DBS informed of its current telefax number at all times. Unless otherwise provided herein, any notice to be given hereunder shall be in writing and shall be sent by hand-delivery, overnight mail, by U.S. certified mail, postage prepaid, return receipt requested or by telefax. Any notice given by properly addressed and stamped U.S. certified mail, return receipt requested, shall be deemed to be given three (3) days following the date of mailing. Notice by overnight mail shall be deemed to be given one (1) day after such mailing. Notice by telefax shall be deemed to constitute notice by hand-delivery.

**E. Contract Renewals.** This Contract may be renewed on a yearly basis for up to a period of three (3) years after the original contract or for a period no longer than the term of the original contract, whichever is longer. Renewal of the Contract shall be by mutual consent in writing and shall be

subject to the same terms and conditions set forth in the initial Contract. Renewals shall be contingent upon satisfactory performance evaluations by the DOE/DBS.

**F. Property.** Notwithstanding any other section of this Contract, all right, title and interest in and to property purchased, produced or developed, in whole or in part, with funds provided under this Contract shall vest in State of Florida, except that to the extent required by applicable law, the right, title and interest in and to intellectual property shall vest in the State of Florida, Department of State.

**G. Remedies of the DOE/DBS Cumulative.** In addition to all remedies available to DOE/DBS hereunder, in the event Contractor breaches its obligations under this Contract, DOE/DBS shall be entitled to exercise any remedy available or provided under Florida law. All rights and remedies granted in this Contract to the DOE/DBS and available at law or equity shall be cumulative and not mutually exclusive.

**H. Non-waiver of Defaults.** Failure of DOE/DBS to declare any default immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default. DOE/DBS shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, in law or in equity. No waiver of any term, provision, condition or covenant of this Contract by DOE/DBS shall be deemed to imply or constitute a further waiver by DOE/DBS of any other term, provision, condition or covenant of this Contract. No payment by DOE/DBS shall be deemed a waiver of any default hereunder.

**I. Captions: Governing Law.**

3. This Contract shall be governed by and construed in accordance with Florida law. Caption headings are inserted for convenience only and shall be ignored in interpreting the provisions of this Contract.

4. Venue for purposes of any action brought to enforce or construe the Contract shall lie in Leon County, Florida.

**J. Mutual Drafting and Negotiation.**

2. Both parties contributed equally to the drafting and negotiation of this Contract. As such, both parties agree that, in the event of a dispute over this Contract, the provisions hereof shall not be more strictly construed against any party.

2. The Contractor and DOE/DBS acknowledge that they have had their respective attorneys review and approve this Contract or that they have had the opportunity to do so.

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**All Terms and Conditions Included.** This Contract and its attachments as referenced contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or Contracts, either verbal or written between the parties. If any terms or provisions of the Contract are found illegal or unenforceable, the remainder of the Contract shall remain in full force and effect and the terms of provisions shall be stricken.

# Appendix

# J

*Attachment D*

**ATTACHMENT D  
AUDIT REQUIREMENTS**

The administration of resources awarded by the Florida Department of Education to \_\_\_\_\_ for Contract \_\_\_\_\_ may be subject to audits and/or monitoring by the Florida Department of Education as described in this section.

**MONITORING**

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Florida Department of Education staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Florida Department of Education. In the event the Florida Department of Education determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Florida Department of Education staff to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Comptroller of Florida and/or U.S. Auditor General.

**AUDITS**

**PART I: FEDERALLY FUNDED**

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

- A. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal resources awarded through the Florida Department of Education by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Florida Department of Education. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
- B. In connection with the audit requirements addressed in Part I, paragraph A., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
- C. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
- D. OMB Circular A-133 is available by selecting Circular A-133 at the Office of Management and Budget's web site [www.whitehouse.gov/omb/circulars](http://www.whitehouse.gov/omb/circulars).

**PART II: STATE FUNDED**

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(l), Florida Statutes.

- A. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and Chapter 691.5 Department of Financial Services, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Florida Department of Education by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Florida Department of Education, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
- B. In connection with the audit requirements addressed in Part II, paragraph A, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- C. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

**ATTACHMENT D  
AUDIT REQUIREMENTS**

- D. The following web sites contain information useful in understanding and complying with the Florida Single Audit Act. Directory to State Government at <http://www.myflorida.com/directory/>, Florida Department of Financial Services <https://apps.fdfs.com/fsaa/>, Auditor General <http://www.state.fl.us/audgen/index.htm> and <http://www.state.fl.us/audgen/pages/rules.htm>, Current Florida Statutes <http://www.leg.state.fl.us/Statutes/index.cfm?Tab=statutes&submenu=1>

**PART III: REPORT SUBMISSION**

- A. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- a. The Florida Department of Education at each of the following addresses:

*Department of Education  
Audit Resolution & Monitoring  
Room 554 Turlington Building  
325 W. Gaines Street  
Tallahassee, FL 32399-0400*

*Or via electronic mail to [Alricky.Smith@fldoe.org](mailto:Alricky.Smith@fldoe.org)*

*Contract Manager  
Department address(es) (i.e., office(s) responsible for program oversight)*

- b. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised. Online submission ONLY now required. Online submission at:

<http://harvester.census.gov/fac/index.html>

- c. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

- B. In the event that a copy of the reporting package for an audit required by PART I of this agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Florida Department of Education for the reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

*Department of Education  
Audit Resolution & Monitoring  
Room 554 Turlington Building  
325 W. Gaines Street  
Tallahassee, FL 32399-0400*

*Or via electronic mail to [Alricky.Smith@fldoe.org](mailto:Alricky.Smith@fldoe.org)*

*Contract Manager  
Department address(es) (i.e., office(s) responsible for program oversight)*

- C. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

- a. The Florida Department of Education at each of the following addresses:

*Department of Education  
Audit Resolution & Monitoring  
Room 554 Turlington Building  
325 W. Gaines Street  
Tallahassee, FL 32399-0400*

*Or via electronic mail to [Alricky.Smith@fldoe.org](mailto:Alricky.Smith@fldoe.org)*

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AUDIT REQUIREMENTS**

*Contract Manager*

*Department address(es) (i.e., office(s) responsible for program oversight)*

*1 paper copy and one electronic copy*

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- b. The Auditor General's Office requires online submission at <http://www.myflorida.com/audgen/pages/localgovt.htm>. Follow submission instructions based on entity type.

- D. Any reports, management letter, or other information required to be submitted to the Florida Department of Education pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- E. Recipients, when submitting financial reporting packages to the Florida Department of Education for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

**PART IV: RECORD RETENTION**

- A. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five years from the date the audit report is issued, and shall allow the Florida Department of Education, or its designee, Comptroller, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Florida Department of Education, or its designee, Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Florida Department of Education *NOTE: Records need to be retained for at least five years to comply with record retention requirements related to original vouchers prescribed by the Department of State, Division of Library and Information Services, Bureau of Archives and Records Management.*
- *Federal retention Requirement – 3 years (OMB-A133 Section .320[g] as revised)*
    - 1 copy of data collection form
    - 1 copy of Reporting Package
  - *State retention Requirement – 5 years (Department of State, Division of Library and Information Services, Bureau of Archives and Records Management)*
    - 1 copy of Reporting Package

**ATTACHMENT D  
AUDIT REQUIREMENTS**

**EXHIBIT – 1**

Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.

**I. FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

*NOTE: Do the resources awarded to the recipient represent more than one Federal program?*

☒ Yes    ☐ No

*If YES, provide the same information shown below for each Federal program and show total Federal resources awarded.*

Federal Program (list Federal agency, Catalog of Federal Domestic Assistance title and number) - \$ (amount)

	\$	
	\$	
	\$	

**II. COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

*NOTE: Do the resources awarded to the recipient represent more than one Federal program?*

☒ Yes    ☐ No

*If YES, list applicable compliance requirements for each Federal program in the same manner as shown below.*

Federal Program:

*Recipient must comply with the following specific laws, rules, or regulations:*

a.      *First applicable law, rule or regulation*

b.      *Second applicable law, rule or regulation*

c.      *Other*

*NOTE: Attach copies of laws, rules, or regulations listed above.*

**III. STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**A. MATCHING RESOURCES FOR FEDERAL PROGRAMS:**

*NOTE: Do the resources awarded to the recipient for matching represent more than one Federal program?*

☒ Yes    ☐ No

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AUDIT REQUIREMENTS**

*If YES, provide the same information shown below for each Federal program and show total State resources awarded for matching.*

Federal Program (list Federal agency, Catalog of Federal Domestic Assistance title and number) - \$ (amount)

	\$	
	\$	
	\$	

**B. SUBJECT TO SECTION 215.97, FLORIDA STATUTES:**

*NOTE: Do the resources awarded to the recipient represent more than one State project?*

☐ Yes    ☒ No

*If YES, provide the same information shown below for each State project and show total state financial assistance awarded that is subject to Section 215.97, Florida Statutes.*

State Project (list State awarding agency, Catalog of State Financial Assistance title and number) - \$ (amount)

	\$	
	\$	
	\$	

**IV. COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

State Projects:

*Recipient must comply with the following specific laws, rules, or regulations:*

a. *First applicable law, rule or regulation*

--

b. *Second applicable law, rule or regulation*

--

c. *Etc.*

--

*NOTE: Attach copies of laws, rules, or regulations listed above.*

# Appendix

# K

*Attachment E*

**STATE OF FLORIDA DEPARTMENT OF EDUCATION  
MINORITY SUBCONTRACTORS UTILIZATION SUMMARY  
ATTACHMENT E**

In November 1999, the Governor announced the One Florida Initiative, an initiative to unite Floridians behind a shared vision of opportunity and diversity for the state. One of the goals of the initiative is to increase opportunity and diversity in state contracting without using policies that discriminate or that pit one racial group against another.

In accordance with the Governor's Initiative, the Department is dedicated to support, track and increase its minority spending with prime contractors and subcontractors. This form was developed to assist in these efforts.

The Prime Contractor shall report all Minority Subcontractors, identifying the Name, Address, Type of Certification and Dollar Amount on the form below. The Prime Contractor shall submit this form with each invoice submitted for payment, whether or not funds have been spent with a Minority Subcontractor for the period covered by the invoice. The Florida Office of Supplier Diversity, Department of Management Services will assist in furnishing names of qualified minorities. The Florida Office of Supplier Diversity can be reached at (850/487-0915); the Internet Web address is [http://dms.myflorida.com/office\\_of\\_supplier\\_diversity\\_osd](http://dms.myflorida.com/office_of_supplier_diversity_osd)

PRIME CONTRACTOR: \_\_\_\_\_

CONTRACT NO.: \_\_\_\_\_

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

<b>MBE CONTRACTORS</b>				
<b>Full Name, Address, Telephone Number</b>	<b>State Certified</b>	<b>Non- Certified</b>	<b>Non- Profit</b>	<b>Dollar Amount</b>

Total Amount \$ \_\_\_\_\_

Certified True and Correct by:

\_\_\_\_\_  
Prime Contractor

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Submit Report to:

Ms. Gwendolyn York  
The Office of Contracts, Grants  
and Procurement  
324 Turlington Bldg.  
325 West Gaines Street  
Tallahassee, FL 32399-0400

For additional information, you may call Mrs. York at 850/245-9170, or email [Gwendolyn.York@FLDOE.org](mailto:Gwendolyn.York@FLDOE.org)

Version May 26, 2005

# Appendix

## L

*Attestation of No Conflict of Interest*

## PLACE ON CURRENT AGENCY LETTERHEAD

### ATTESTATION OF NO CONFLICT OF INTEREST

Individuals taking part in the development of selection of criteria for evaluation, the evaluation process and the award process shall attest in writing that they are independent of and have no conflict of interest in the entities evaluated and selected, in accordance with §287.057(20), Florida Statutes.

The undersigned individual(s) hereby attest that he/she/they are independent of the procurement represented on Contract/Grant no. \_\_\_\_\_ and that he/she/they have no conflict of or interest in, the entity evaluated and selected.

\_\_\_\_\_  
Contractor's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip Code

\_\_\_\_\_  
Contract Manager's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contract Administrator's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director's Signature

\_\_\_\_\_  
Date

# Appendix

# M

## *Disclosure Statement*

**DISCLOSURE STATEMENT**  
State of Florida, Department of Education  
Contract No. \_\_\_\_\_

---

Contractor represents and warrants as a material inducement to the State of Florida, Department of Education ("Department"), to enter the above referenced Contract that:

1. Neither Contractor, nor any officer, agent or employee of Contractor has now or ever has had any private business venture with the following individuals (hereinafter called "Agency Personnel"): Members of the State Board of Education, the Board of Governors, the Commissioner of Education, the Contract Manager named in the Contract, or the members of the Senior Management Service or Selected Exempt Service presently employed by Department or the State Board of Education; and
2. Neither Contractor, nor any officer, agent or employee of Contractor has given or offered to give money or anything else of value to any one or more of the Agency Personnel, or to any other person, in consideration for Contractor's selection as Contractor; and
3. Contractor knows of no fact or incidence of wrongdoing surrounding its selection as Contractor that, if disclosed to the Department would call into question Contractor's selection as Contractor or its fitness or ability to meet all of its legal and ethical obligations under the Contract.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature

(If Corporation, Partnership or D/B/A):

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone/Fax

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who produced \_\_\_\_\_ for identification.

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

\_\_\_\_\_  
Name of Notary Public

My Commission expires:

# Appendix

# N

## *Performance Bond Waiver*

## PERFORMANCE BOND WAIVER

### 1.0 Performance Bond Waiver Policy

It is the policy of the Department of Education (DOE) to waive the requirement of a performance bond on Information Technology (IT) State Term Contracts, only under the following conditions:

- a. The project for which the performance bond waiver is being requested shall be for staff augmentation services; or
- b. The service is on a time and materials basis rather than a fixed deliverable basis; or
- c. There are extraordinary circumstances, and it is determined to be in the best interest of the state. A complete explanation of any extraordinary circumstance and how it is in the best interest of the state to waive the bond requirement must accompany the request.

A program director may request waiver of this requirement by certifying and returning this form with the following attachments:

- a. Documentation of the Contractor name, total dollar amount for the services being provided, the state term contract number, and the bonding capacity of the Contractor.
- b. Identify the agency personnel who shall supervise all Contractor personnel.
- c. A detailed description of all state-owned systems, databases, or other programs that are affected by the Contractor's work. Include the total replacement value of the information contained in the state-owned systems, databases or other programs affected by the Contractor's services. The total replacement value calculation should be available through an agency Disaster Recovery Plan, Y2K data, or in consultation with the STO.
- d. A copy of the Contractor's Professional Liability (Errors & Omissions) Insurance Policy, including the amount of the policy. The policy must be equal or greater than the total replacement value of the specified state-owned systems, databases or other programs affected by the Contractor's services. The State must be named as an additional insured.
- e. A list of all Contractor's existing IT contracts with the State of Florida, including contract amounts and percentage of completion. The Contractor agrees that in the event that multiple service contracts are awarded, the Contractor shall carry sufficient Professional Liability (Errors & Omissions) Insurance to cover the total replacement value of all state-owned systems, databases or other programs being serviced by the Contractor.

## 2.0 Approvals

**PROGRAM AREA DIRECTOR:** I hereby certify that all requirements have been met and all required documentation has been attached to this waiver request.

\_\_\_\_\_  
Program Area Director Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Requesting Program Area

\_\_\_\_\_  
State Contract No./PO Reference

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

**CONTRACTOR:** I hereby certify that all requirements have been met and all required documentation has been attached to this waiver request.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor/Company Name

**DEPARTMENT OF EDUCATION:**

A. \_\_\_\_\_ Waiver Approved

B. \_\_\_\_\_ Waiver Approved, with the following conditions.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. \_\_\_\_\_ Waiver Not Approved

\_\_\_\_\_  
Chief Information Officer

\_\_\_\_\_  
Date

# Appendix

## O

### *Risk Assessment Definitions*

## RISK ASSESSMENT WEIGHT TABLE

### RISK ASSESSMENT DEFINITIONS

A **High-Risk Contract** requires more stringent monitoring than the medium or low-risk contracts due to the importance, sensitivity, or other factors as indicated on the Risk Assessment Weight Table with a score of 38 to 50. A High-Risk contract includes the following factors:

- mission critical
- total amount is \$500,000 or more
- the services provided have a direct impact on the clients serviced
- has no monitoring plan
- major findings have been identified in the provider's history

A **Medium-Risk Contract** requires less monitoring than the high-risk contracts but more than the low risk contracts due to the factors as indicated on the Risk Assessment Weight Table with a score of 30 to 37. A Medium-Risk contract includes the following factors:

- mission support
- total amount is more than \$100,000 but less than \$500,000
- the services provided have an indirect impact on the clients serviced
- has a current monitoring plan
- only minor findings have been identified in the provider's history
- the provider is new

A **Low-Risk Contract** requires less monitoring than the high-risk or medium-risk contracts due to the factors as indicated on the Risk Assessment Weight Table with a score of 29 or less.

A Low-Risk contract includes the following factors:

- mission support
- total amount is less than \$100,000
- the services provided have an indirect impact on the clients serviced
- it is monitored by an independent source
- there have been no findings during previous monitoring

#### **Department Priority:**

##### Mission Critical

Directly related to the agency or division mission; including, but not limited to:

- Florida Comprehensive Assessment Test (FCAT)
- Just Read, Florida
- Governor's Mentoring Initiative
- One Florida
- No Child Left Behind
- Rehabilitation
- Pass-thru Contract Dollars

##### Mission Support

Supports established Departmental Mission Statements including, but not limited to:

- Legal Services
- Consulting Services
- Technology

## RISK ASSESSMENT WEIGHT TABLE

- Security Services
- Counseling
- Management Services
- Default Aversion Assistance
- Training
- Curriculum Specifications
- Investigative Services
- Executive Search Services
- Physical Plant
- Building Renovations
- Pass-thru Contract Dollars

### **Contacted dollars:**

The total amount of the contract.

### **Nature of Services:**

Types of services contracted. Services can be direct or indirect. Direct services are those where the Contractor deals directly with a client or group of clients. All other services are identified as Indirect. This includes, but is not limited to:

#### **Direct**

Child Care Services  
Rehabilitation  
Independent Living Services  
Legal Services  
Counseling  
Default Aversion Assistance

#### **Indirect**

Testing, Assessment & Evaluation  
Legal Services  
Consulting  
Technology  
Security Services  
Counseling  
Management Services  
Training  
Curriculum Specifications  
Investigative Services  
Executive Search Service  
Media Services  
Physical Plant  
Building Renovation

### **Current Monitoring Plan:**

Monitoring means any planned or periodic monitoring or review of activity that measures and ensures contractor compliance with the terms, conditions, and requirements of a contract. The level of monitoring should be based on a risk assessment of the contractor's role in delivering acceptable services and the contractor's ability to fulfill the contract deliverables in accordance with the contract terms.

## RISK ASSESSMENT WEIGHT TABLE

### Provider History:

Past demonstrated contractor performance including:

- **Major Findings** - Findings that would affect service delivery, put clients at risk or has potential for payment error, and has been placed on the Department of Management Services' Vendors Suspended List.
- **Minor Findings** - Findings that would not affect service delivery, put clients at risk or have potential for payment error, has not been placed on the Department of Management Services' Vendors Suspended List.
- **Corrective Action** - Action taken by the contractor that corrects identified deficiencies, produces recommended improvements, or demonstrates that deficiencies or findings are either invalid or do not warrant further action.

**Risk Value** is the numeric range of risk for each criterion category used to determine the overall rating of the risk level for each contract.

# Appendix

## P

### *Risk Assessment Weight Table*

# RISK ASSESSMENT WEIGHT TABLE

CONTRACT NO. \_\_\_\_\_

Beginning Date \_\_\_\_\_ Ending Date \_\_\_\_\_

Risk Level of Contract \_\_\_\_\_

Contract Manager \_\_\_\_\_

CRITERIA	RISK VALUE	SCORE
----------	------------	-------

<b>Department Priority</b>		
Mission Critical	10	
Mission Support	5	

<b>Contracted dollars</b>		
\$1,000,000 and above	10	
\$500,000 to \$999,999	8	
\$250,000 to \$499,00 or Open-Ended	6	
\$100,000 to \$249,999	4	
Under \$100,000	2	

<b>Nature of Services</b>		
Direct	10	
Indirect	5	

<b>Current Monitoring Plan</b>		
No current monitoring plan	10	
Current monitoring plan in-place	5	
Monitored by Federal Audit or independent source	0	

<b>Provider History</b>		
<b>Corrective actions:</b> Major findings- Findings that would affect service delivery, put clients at risk or have potential for payment error, and has not been placed on the Vendors Suspended List.	10	
<b>Corrective actions:</b> Major findings- Findings that would <u>not</u> affect service delivery, put clients at risk or have potential for payment error, and has not been placed on the Vendors Suspended List.	8	
New Provider	6	
No findings	0	

Identify Exceptions: Considerations that impact the frequency of monitoring contracts. Check if appropriate.	
--	--

**TOTAL SCORE**

## RANGES

LOW	0	to	29
-----	---	----	----

MEDIUM	30	to	37
--------	----	----	----

HIGH	38	to	50
------	----	----	----

# Appendix

## Q

*Amendment Form*

**FLORIDA DEPARTMENT OF EDUCATION**  
**CONTRACT NO. \_\_\_\_\_**  
**AMENDMENT NO. \_\_\_\_\_**

This AMENDMENT to the FLORIDA DEPARTMENT OF EDUCATION CONTRACT Number <insert contract number> (“Contract”) is entered into by and between <insert Contractor’s Name>, a <Contractor’s designation as registered to do business in the State of Florida>, (the “Contractor”) authorized to do business in the State of Florida, with its principal office at <Contractor’s Address>, and the Florida Department of Education (“DOE/DVR”), an agency of the State of Florida with its principal offices in Tallahassee, Florida. Defined terms used herein shall have the meanings set forth in the Contract.

WHEREAS, on <Contract start date>, the Department entered into the Contract with the Contractor to provide the service; and

WHEREAS, the DOE desires to amend this Contract to <brief description of purpose of the amendment>.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter stated, the DOE and the Contractor covenant and agree as follows:

1. The recitals are true and correct and are incorporated herein by reference.
2. SAMPLE LANGUAGE ONLY: The Contract, Section <insert appropriate section> Paragraph <insert appropriate paragraph>, <insert appropriate sentence> sentence. Is hereby (amended/deleted/deleted and replaced/etc.) to read as follows:

<Insert amended language>

3. SAMPLE LANGUAGE ONLY: Attachment A, Section <insert appropriate section>, Paragraph <insert appropriate paragraph>, <insert appropriate sentence> sentence. Is hereby (amended/deleted/deleted and replaced/etc.) to read as follows:

<Insert amended language>

The effective date of the Amendment shall be the date that it is signed by both parties.

All provisions in the contract and any attachments thereto in conflict with this amendment shall be and are hereby changed to conform to this amendment.

All provisions not in conflict with this amendment are still in full force and effect and are to be performed at the level specified in the contract.

IN WITNESS WHEREOF, the parties hereto have caused this <total number of pages> page Amendment to be executed by their proper and duly authorized representatives.

**Department of Education**

**Contractor:** <Name>

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

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

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

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

**Title:** Commissioner

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

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

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

# Appendix

# R

*Minor Change Letter Form*

LETTER SHOULD BE ON CURRENT DOE LETTERHEAD

## MINOR CHANGE LETTER FORM

(DATE)

(Vendor's Contract Manager Name)

(Vendor Name)

(Vendor's Street Address)

(Vendor's City, State Zip Code)

Re: DOE Contract Number: (      )

Dear Ms/r. \_\_\_\_\_,

This letter serves as notification that the following minor change(s) has/have been made by the Department in our current contract number \_\_\_\_\_ with you:

(Describe the minor change(s) to the contract. **The change(s) are limited to contract manager changes, address and telephone number corrections/updates.** If a change in contract manager is being made include the contract manager's contact information, including address, telephone number and email address.

If you have any questions, please contact me at (000) 000-0000.

Sincerely,

(Name of DOE Contract Manager)

(Title)

cc: Contract Administration  
DOE Comptroller

# Appendix

# S

*Renewal Confirmation Letter*

**LETTER SHOULD BE ON CURRENT DOE LETTERHEAD**

## **RENEWAL CONFIRMATION LETTER**

[Date]

[Mr. /Ms. /Mrs.] [Name of Vendor's Contract Manager]

[Name of Vendor]

[Vendor's Mailing Address]

[City, State, Zip]

Dear [Mr. /Ms. /Mrs.] [Last Name of Vendor's Contract Manager]:

Pursuant to Section 287.057(14)(a) of the Florida Statutes and Section VII of the Contract, the Florida Department of Education wishes to know if your company is willing to renew Contract No. [5 digit contract number], for [type of service], for an additional period from [date renewal will start] through [date renewal term will end], at the same prices, terms and conditions as set forth in the original contract.

We would appreciate receiving your response to exercise this option for renewal on or before [Need by date]. Please sign and date below to indicate your acceptance. Return to:

[DOE Contract Manager]

[Mailing Address]

[City, State, Zip]

Any questions should be directed to me at (850) 000-0000.

Sincerely,

[DOE Contract Manager]

**ACCEPTED:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

# Appendix

## T

*Renewal Letter*

**LETTER SHOULD BE ON CURRENT DOE LETTERHEAD**

## **RENEWAL LETTER**

[Date]

[Mr. /Ms. /Mrs.] [Name of Vendor Contact]  
[Name of Company (As it appears in contract)]  
[Street Address]  
[City, State, Zip]

Dear [Mr. /Ms. /Mrs. Last Name]:

Pursuant to Section 287.057(14)(a), Florida Statutes and Section VII of the Contract, the Department of Education is exercising its option to renew this contract for, [Project Name/Services], if mutually agreed to by both parties beginning on [Month/Day/Year] and ending on [Month/Day/Year], in an amount not to exceed [\$\_\_\_\_\_,] inclusive of the amount stated in the original contract, all amount changes to the contract through amendment and subsequent renewals. All terms and conditions of said original contract and any supplements and amendments thereto shall remain in force and effect for this renewal. Please indicate your acceptance of this renewal by having your company's authorized signer, sign in the block indicated below and return to me before [Month/Day/Year] to: Florida Department of Education, [Office], [Street Address], [City, State, Zip].

Sincerely,

[DOE Contract Manager's Name]  
[Title]  
[(850) 000-0000]

IN WITNESS WHEREOF, the parties have executed this Renewal for Contract Number <5 digit DOE contract number> by their undersigned officials as duly authorized.

DEPARTMENT OF EDUCATION

CONTRACTOR

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Approve as to form and legality  
By the DOE General Counsel's Office

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Appendix

## U

*Extension Letter*

**LETTER SHOULD BE ON CURRENT DOE LETTERHEAD**

## **EXTENSION LETTER**

<Date>

<Mr./Ms./Mrs. Name of Vendor Contact>

<Name of Company (As it appears in contract)>

<Street Address>

<City, State, Zip>

Dear <Mr./Ms./Mrs. Last Name:>

Pursuant to Section 287.057(13), Florida Statutes, the Department of Education is exercising its option to extend this contract for, <Project Name/Services>, if mutually agreed to by both parties beginning on <Month/Day/Year> and ending on <Month/Day/Year> (Not to exceed 6 months), in an amount not to exceed <\$\_\_\_\_\_,> inclusive of the amount stated in the original contract, all amount changes to the contract through amendment and subsequent renewals. All terms and conditions of said original contract and any supplements and amendments thereto shall remain in force and effect for this extension. Please sign to indicate your acceptance of this extension and return before <Month/Day/Year> to my attention to:

<Florida Department of Education>

<Office>

<Street Address>

<City, State, Zip>

Sincerely,

<Contract Manager's Name>

<Title>

<850.000.0000>

**DEPARTMENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Dr. Eric J. Smith, Commissioner

**CONTRACTOR**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Company Name

# Appendix

## V

*Single Audit Act Recipient/ Subrecipient vs. Vendor Determination Form*  
*State of Florida Form*  
*Federal Form*

# FLORIDA SINGLE AUDIT ACT CHECKLIST FOR NON-STATE ORGANIZATIONS – RECIPIENT/SUBRECIPIENT VS. VENDOR DETERMINATION

This checklist and the standard contract audit language may be obtained electronically from the Department of Financial Services' website (<https://apps.fldfs.com/fsaa>).

If a Florida Single Audit Act State Project Determination Checklist has not been previously completed, please complete it now. (Applies only to State agencies)

This checklist must be used by State agencies to evaluate the applicability of the Florida Single Audit Act (FSAA) to non-state organizations after a state program has been determined (using the Florida Single Audit Act State Project Determination Checklist) to provide state financial assistance (i.e. is a State Project as defined in 215.97 (2), F.S.). This checklist assists in determining if the non-state organization is a vendor, recipient/subrecipient, or an exempt organization.

Recipients and subrecipients of state financial assistance must also use this checklist to evaluate the applicability of the FSAA to non-state organizations to which they provide State resources to assist in carrying out a State Project.

Name of Non-state Organization: \_\_\_\_\_  
 Type of Non-state Organization: \_\_\_\_\_  
 (i.e. nonprofit, for-profit, local government; if the non-state organization is a local government, please indicate the type of local government – municipality, county commission, constitutional officer, water management district, etc.)  
 Awarding Agency: \_\_\_\_\_  
 Title of State Project: \_\_\_\_\_  
 Catalog of State Financial Assistance (CSFA ) Number: \_\_\_\_\_  
 Contract/Grant/Agreement Number: \_\_\_\_\_

## PART A

<u>YES</u>	<u>NO</u>	
_____	_____	1. Is the non-state organization a district school board, charter school, community college, public university, government outside of Florida, or a Federal agency?
_____	_____	2. Is the relationship with the non-state organization <b>only</b> to procure commodities (as defined in 287.012(5) F.S.)?
_____	_____	3. Does the relationship with the non-state organization consist of <b>only</b> Federal resources, State matching resources for Federal Programs or local matching resources for Federal Programs?
_____	_____	4. Does the relationship with the non-state organization consist of <b>only</b> State maintenance of effort (MOE) <sup>1</sup> resources that meet all of the following criteria?
_____	_____	A. Do Federal Regulations specify the requirements for the use of the State MOE resources and are there no additional State requirements?
_____	_____	B. Do Contracts contain sufficient language to identify the State MOE resources and the associated Federal Program?
_____	_____	C. Do A-133 audit requirements apply to the State MOE resources and do contracts stipulate that the State MOE resources should be tested in an A-133 audit in accordance with Federal Program requirements?
<p><sup>1</sup> MOE refers to the Federal maintenance of effort/level of effort requirements as defined by OMB Circular A-133 Compliance Requirement G (Matching, Level of Effort, Earmarking).</p> <p>If <b>any</b> of 1-4 above is <b>yes</b>, the recipient/vendor relationship determination does not need to be completed because <b>the FSAA is not applicable to the non-state organization.</b></p>		

## PART B

### Recipient/Vendor Relationship Determination:

The following should be analyzed for each relationship with a non-state organization where it has been determined that the state program provides state financial assistance (i.e. is a State Project) and the non-state organization is not exempt based on the questions above. This relationship may be evidenced by, but not limited to, a contract, agreement, or application.

**YES**

**NO**

- |       |       |  |
|-------|-------|--|
| _____ | _____ | 1. Does State law or legislative proviso create the non-state organization to carry out this State Project?  |
| _____ | _____ | 2. Is the non-state organization required to provide matching resources not related to a Federal Program?  |
| _____ | _____ | 3. Is the non-state organization required to meet or comply with specified State Project requirements in order to receive State resources? (State Project requirements include laws, rules, or guidelines specific to the State Project such as eligibility guidelines, specified types of jobs to be created, donation of specified assets, etc. Specified State Project requirements do not include procurement standards, general guidelines, or general laws/rules.) |
| _____ | _____ | 4. Is the non-state organization required to make State Project decisions, which the State agency would otherwise make? (e.g. determine eligibility, provide case management, etc.)  |
| _____ | _____ | 5. Is the non-state organization's performance measured against whether State Project objectives are met? (e.g. number of jobs to be created, number of patients to be seen, number of disadvantaged citizens to be transported, etc. Performance measures may or may not be related to State performance-based budgeting.)  |

If **any** the above is **yes**, there is a **recipient/subrecipient relationship** and the non-state organization **is** subject to the FSAA. Otherwise the non-state organization is a **vendor** and is **not** subject to the FSAA.

## PART C

Based on your analysis of the response above and discussions with appropriate agency personnel, state your conclusion regarding the non-state organization.

**(Check one) Recipient/Subrecipient: Vendor: Exempt Organization:**

**Comments:**

**Print Name:**

**Telephone Number:**

**Title:**

**Signature:**

**Date:**

Note it is the program personnel's responsibility to notify Finance and Accounting of which non-state organizations have been determined to be recipients and are receiving state financial assistance (i.e. disbursements must be coded as 7500 object code in FLAIR).

*Note it is possible to have a contractual agreement with a non-state organization under Chapter 287, Florida Statutes, and still consider the non-state organization a recipient under the Florida Single Audit Act.*

If a recipient/subrecipient relationship exists the standard contract audit language, including Exhibit 1 (DFS-Ad-CL), must be included in the document that established the State's, recipient's or subrecipient's relationship with the non-state entity.

Questions regarding the evaluation of a non-state organization or if it has been determined that the non-state organization is a recipient and a CSFA number has not been assigned, contact your FSAA State agency liaison or the Department of Financial Services, Bureau of Auditing at (850) 413-3060 or Suncom 293-3060. Reference may be made to Rule 69I-5, FAC.

## Vendor/Subrecipient Determination for Federally Funded Contracts

Non-State Organization: \_\_\_\_\_

Nonprofit ☐ ForProfit ☐

(Check appropriate classification with regard to Provider.)

**Please Note:** For-Profit corporations are Vendors by default.)

Federal Program Adminstrating Agency: \_\_\_\_\_

**CFDA No.** (Catalog of Federal Financial Assistance No., indicate appropriate Federal Program(s) in the blank provided.)

\_\_\_\_\_

Contract No. \_\_\_\_\_

Contract Agreement Period: From \_\_\_\_\_ To \_\_\_\_\_

Completed by: \_\_\_\_\_  
(Contract Manager's Name)

\_\_\_\_\_  
(Contract Manager's Title)

\_\_\_\_\_  
(Date)

### Part A: Check either Vendor or Subrecipient based upon an analysis of the defining characteristics for each.

#### 1. Vendor (Check all that apply):

- ☐ Provides the goods and services within normal business operations.
- ☐ Provides similar goods or services to many purchasers
- ☐ Operates in a competitive environment
- ☐ Provides goods or services that are in support of the Federal program
- ☐ Is not subject to compliance requirements of the Federal program.

#### 2. Subrecipient (Check all that apply):

- ☐ Has its performance measured against Federal program objectives?
- ☐ Determines eligibility for Federal financial assistance.
- ☐ Has responsibility for programmatic decision making.
- ☐ Must adhere to Federal program compliance requirements.
- ☐ Uses Federal funds to carry out its own programs as compared to providing goods or services for a Program of a pass-through entity.

### Part B: Conclusion

Based on your analysis of the responses to Part A indicate your evaluation of the organization for this contract:

(check one) Subrecipient ☐ Vendor ☐

#### Comments:

\_\_\_\_\_

**NOTE:** This checklist is a tool for Agency contract managers to use to determine a Provider's status as either a Vendor or a Subrecipient as defined in OMB Circular A-133, Section 210, as revised. A Provider that is classified as a Subrecipient would be subject to audit requirements as specified in OMB Circular A-133, Section 210, as revised.

# Appendix

## Y

### *Monitoring Plan*

# CONTRACT FILE CHECKSHEET

## GENERAL INFORMATION

<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Type:	
Contract Manager:	

# ORIGINAL CONTRACT CHECKSHEET

[illegible]

# PROCUREMENT CHECKSHEET

## GENERAL INFORMATION

<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Type:	
Contract Manager:	

## PROCUREMENT RECORDS

YES	NO	N/A	Review file. Explain any N/A.
			Proof of legal advertising: copy FAW notice, plus another documentation
			Prospective vendor list
			Solicitation documentation
			RFP, ITN, ITB, or other procurement instruments
			◆ Documentation of opening and scoring of responsiveness of bids or proposals
			◆ Receipt log of all bids, proposals, applications
			◆ Copies of responses and proposals to RFP, ITN, ITB, or other procurement instruments
			Selection documentation
			◆ Documentation of team selection and meetings
			◆ Team evaluations and scoring
			◆ Postings of intent to award
			◆ Bid tabulation, if applicable
			Bidders Conferences
			◆ Documentation of date, places, time, attendees
			◆ Q/A from conference
			◆ Any bid/rfp/proposal clarifications or modifications due to bidders conference
			Notice of Award
			Protests, if any received, documentation and resolution
			Cost/Price Analysis
			Sole Source documentation of posting and approval
			Determination of Need for Contractual Services
			List of other file documents:

## FINANCIAL CHECKSHEET

## GENERAL INFORMATION

<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Type:	
Contract Manager:	

## FINANCIAL RECORDS

[illegible]

# MONITORING ACTIVITIES

## GENERAL INFORMATION

<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Type:	
Contract Manager:	

## MONITORING ACTIVITIES CHECKLIST

YES	NO	N/A	Use this checklist to develop your monitoring plan, track monitoring progress, organize work papers and complete monitoring report.
			Have you identified target dates for goals and tasks to be accomplished?
			Introductory letter sent to contractor?
			Request to contractor to complete self-evaluation?
			Risk analysis conducted?
			<b>Have you determined what monitoring tools will be used?</b>
			✓ Have you formatted monitoring tools to fit the contract that you will be monitoring?
			Have you reviewed your contract file to make sure you have all documentation?
			<b>Monitoring team?</b>
			✓ If yes, have team members been selected?
			✓ If yes, have team member been notified?
			<b>Will you do on-site monitoring?</b>
			✓ If yes, when, do you have a regular schedule?
			<b>Will you do telephone monitoring?</b>
			✓ If yes, when will you make phone calls?
			<b>Will you interview Contractor employees?</b>
			✓ If yes, do you know names, job title and responsibilities of employees?
			✓ If yes, do you have interview questions developed?
			<b>Do you know what documents you will request?</b>
			✓ If yes, do you have them listed out?
			✓ If yes, have you notified the contractor?
			If yes, have you received documents from contractor?
			<b>Will you do an entrance Interview?</b>
			✓ If yes, do you have it scheduled with the Contractor?
			<b>Do you have all information and documentation to write report?</b>
			<b>Where any adverse or nonperformance issues identified?</b>

YES	NO	N/A	Use this checklist to develop your monitoring plan, track monitoring progress, organize work papers and complete monitoring report.
			✓ If yes, where they discussed with the contractor?
			✓ If yes, has a corrective action plan been developed and agreed upon?
			<b>Was there a prior corrective plan or audit?</b>
			✓ If yes, have corrective actions been implemented?
			✓ If yes, is there documentation or evidence that corrective actions were implemented?
			✓ Is this documentation in the contract file?
			✓ If yes, are there any outstanding corrective actions?
			ISSUE REPORT
			Does contractor have any comments regarding the report?
			✓ If yes, how does this impact the report or future monitoring?

# PROGRAM MONITORING

<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Type:	
Contract Manager:	

## PROGRAMMATIC MONITORING

YES	NO	N/A	This section should be completed based on "all" terms and conditions in the basic contract and Attachment A. This information should be used in developing the quarterly monitoring report and any recommendations for amendments or future contracts.
			Name of Project:
			Summary of Project:
			Contact Attachments:
			Contract Manager for the Contractor:
			Renewal Clause
			Travel Allowed
			<b>ATTACHMENT A, PART I, PROJECT OVERVIEW</b>
			D. What are the Outcomes? (list all outcomes and for each answer the questions below)
			✓ Are required outcomes being met?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			E. What is the Role of Contractor on the Project Outcomes? (list out each role and answer the questions below)
			✓ Is the Contractor fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			F. What is the Role of the Department? (list out each role and answer questions below)
			✓ Is the DOE fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			<b>ATTACHMENT A, PART II, PROJECT PHASES AND DELIVERABLES</b>
			A: Description of the Major Phases Stages or other organizational Structure of the Project. (list out each phase and answer questions below)

YES	NO	N/A	This section should be completed based on "all" terms and conditions in the basic contract and Attachment A. This information should be used in developing the quarterly monitoring report and any recommendations for amendments or future contracts.
			✓ Is the Contractor fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			B. What are the deliverables? Attach list if necessary and answer questions below for each).
			✓ Is the Contractor fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			C. What are the final criteria for final completion of the contract?
			✓ Does it appear that the contractor will be able to fulfill this obligation?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			D. If acceptance testing is applicable, has an acceptance plan been developed?
			✓ If not, is there a timeline for completion?
			✓ If not, will timelines be met?
			✓ If yes,
			✓ Is the Contractor fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			E. If software up-dates are applicable:
			✓ Is the Contractor fulfilling their role?
			✓ If yes, do you have supporting documentation for the file?
			✓ If no, do you have supporting documentation for the file?
			✓ If no, was this discussed with the Contractor?
			✓ If no, what actions are being taken?
			<b>PART III – MODIFICATION OF STANDARD TERMS AND CONDITIONS</b>
			If applicable the monitoring check list for Standard Terms and Agreement should be modified to incorporate these changes.
			<b>PART IV – PERFORMANCE BOND</b>

YES	NO	N/A	This section should be completed based on "all" terms and conditions in the basic contract and Attachment A. This information should be used in developing the quarterly monitoring report and any recommendations for amendments or future contracts.
			If applicable, is there sufficient documentation to validate that performance bond or other securities were received or still in effect?
			<b>PART V – ADDITIONAL TERMS AND CONDITONS</b>
			If yes, each specific requirement as presented in the contract should be monitored and reported on.

## CAP FORMAT

<b>REVIEW FOR THE PERIOD:</b>	
<b>DATE OF REVIEW:</b>	<b>DIVISION/BUREAU:</b>
<b>CONTRACT NUMBER:</b>	<b>CONTRACT BEGIN/END DATE:</b>
Name of Contractor:	
Contract Manager:	
Name of Project:	
Summary of Project:	

### CORRECTIVE ACTION PLAN

Source	Deficiency	Corrective Action	Target Date	Actual Date
Provide the specific contract requirement or legal source where deficiency is occurring.	Explain the deficiency	Recommended corrective action	Date corrective action should be completed...work with the contractor	Actual date completed.

Provide other information as may be needed or applicable.

**CONTRACTOR CERTIFICATION REGARDING  
SCRUTINIZED COMPANIES LISTS  
CONTRACT NO. \_\_\_\_\_**

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

**Vendor FEIN:** \_\_\_\_\_

**Contractor's Authorized Representative Name and Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

Section 287.135, Florida Statutes, prohibits agencies from contracting with companies, for goods or services over \$1,000,000, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists are created pursuant to section 215.473, Florida Statutes.

The above named contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., the contractor agrees the Department may immediately terminate this contract for cause if the contractor is found to have submitted a false certification or if the 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.

As the person authorized to sign on behalf of Contractor, I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs.

**Certified By:** \_\_\_\_\_,

**Authorized Signature Print Name and  
Title:** \_\_\_\_\_

## Executive Order 11-01 – Contract Review Guidelines

Contract # \_\_\_\_\_ Contractor's Name \_\_\_\_\_  
☐ New Contract ☐ Amendment ☐ Renewal ☐ Extension

Formal Procurement # \_\_\_\_\_  
☐ Invitation to Bid ☐ Request for Proposal ☐ Invitation to Negotiate ☐ Request for Quote

Project Title: \_\_\_\_\_ Value \$ \_\_\_\_\_

Project Description:

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1. Was competition used to procure commodity or service or was approved state term contract utilized?  
☐ Yes, Bid# \_\_\_\_\_ ☐ No, Exemption \_\_\_\_\_
2. Could contract change have some adverse impact on job growth in the state of Florida?  
☐ Yes, Explain \_\_\_\_\_  
☐ No
3. Could contract change have some adverse impact on the business climate in the state of Florida?  
☐ Yes, Explain \_\_\_\_\_  
☐ No
4. Is contract change necessary in order to carry out legislative intent and are there sufficient state or federal funds?  
☐ Yes, Explain/Reference \_\_\_\_\_  
☐ No
5. Does contract change positively affect an agency's core business function?  
☐ Yes, Explain/Reference \_\_\_\_\_  
☐ No
6. Does contract change conflict with any Governor priorities?  
☐ Yes, Explain/Reference \_\_\_\_\_  
☐ No
7. Should or has Deputy Chief of Staff been consulted for agreement?  
☐ Yes, Date \_\_\_\_\_  
☐ No

## Florida Department of Education: State Contract Management System Information

Contractual Agreement Number	
OLO Code:	Click here to enter text.
Contract Type	Choose an item.
Vendor Name	Click here to enter text.
County	Click here to enter text.
Contract Manager	Click here to enter text.

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

### GENERAL INFORMATION

Purpose of Contract: (deliverable, output, benefit)	Click here to enter text.
Explanation:	Click here to enter text.
Program/Project Titles:	Click here to enter text.
Acquisition/Lease?	Choose an item.
Compensation Type:	Choose an item.
Administrative Cost Allowed (Y/N)	Choose an item.
Does the contract specify periodic increases? (Y/N)	Choose an item.
Explanation of contract increase:	Click here to enter text.
Is the contract addressing a Legislative Requirement or Agency Initiative?	Choose an item.
Law/Statutory Citation:	Click here to enter text.
Contract Duration	Start Date: End Date
Total Cost over term of contract	Click here to enter text.

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

## Florida Department of Education: State Contract Management System Information

### DOLLAR and DETAIL

Fiscal Year	BE Code	Appropriation Category Code	OCA or Project ID	Recurring GR	Nonrecurring GR	Recurring TF	Nonrecurring TF
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Print Name & Initial of Person Completing

Date

### PROCUREMENT

Procurement Method:	Click here to enter text.
Was a business case or cost benefit analysis completed for project prior to solicitation? (Y/N)	Choose an item.
Was this contract competitively procured? If No, please explain.	Choose an item. Click here to enter text.
Has a business case or cost benefit analysis been completed after the solicitation? (Y/N)	Choose an item.
Was function performed by the State prior to outsourcing? (Y/N)	Choose an item.
Has a cost benefit analysis been completed since the award of the contract? (Y/N)	Choose an item.
Have any administrative or legal challenges been raised related to the procurement? (Y/N) If Yes, please briefly explain the issue and outcome.	Choose an item. Click here to enter text.

Print Name & Initial of Person Completing

Date

## Florida Department of Education: State Contract Management System Information

### CONTRACT COMPLIANCE

Does the contract contain performance measures/metrics? (Y/N) If No, please provide an explanation.	Choose an item. <a href="#">Click here to enter text.</a>
Is the vendor meeting the performance requirements? (Y/N) If No, please provide an explanation.	Choose an item. <a href="#">Click here to enter text.</a>
Have there been any contract violations or project slippages? (Y/N) If Yes, please provide an explanation.	Choose an item. <a href="#">Click here to enter text.</a>
For any contract executed after July 1, 2010, does the contract comply with the provisions of s. 287.058, F.S.? (Y/N) If No, please provide an explanation.	Choose an item. <a href="#">Click here to enter text.</a>

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

### MODIFICATIONS

What was the original term of the contract? (in months)	<a href="#">Click here to enter text.</a>
Has the scope of the original contract been modified? (Y/N) If yes, please provide an explanation.	Choose an item. <a href="#">Click here to enter text.</a>
Has initial contract been amended? (Y/N) If yes, briefly explain purpose for each amendment	Choose an item. <a href="#">Click here to enter text.</a>
How many renewals are authorized?	
How many renewals have been executed? Comments on renewals	<a href="#">Click here to enter text.</a> <a href="#">Click here to enter text.</a>
How many extensions are authorized?	<a href="#">Click here to enter text.</a>
How many extensions have been executed?	<a href="#">Click here to enter text.</a>
How many months has the contract been extended? Comments on extensions	<a href="#">Click here to enter text.</a> <a href="#">Click here to enter text.</a>

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

## Florida Department of Education: State Contract Management System Information

### FUTURE ACTIONS

What is the projected date for the next action on this contract?	Click here to enter a date.
What type of action do you anticipate (renegotiation, extension, renewal, reprocurement)?	Choose an item.
Has the project been considered for insourcing back into the agency? (Y/N)	Choose an item.

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

### CAPITAL IMPROVEMENTS

Amount of any capital improvements on state property by vendor that have not been fully amortized by the end of the current fiscal year.	Click here to enter text.
Description of capital improvements on state property by vendor.	Click here to enter text.
Value of any capital improvements on state property by vendor	Click here to enter text.

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

### EXECUTIVE ORDER

Is this contract submitted for approval pursuant to Executive Order 11-1? (Y/N)	Choose an item.
Has the Agency briefed the current Executive Office of the Governor on the contract? (Y/N)	Choose an item. Click here to enter text.
Does this contract have a positive impact on job growth in Florida? (Y/N)	Choose an item. Click here to enter text.
Approved by the Office of Fiscal Accountability and Regulatory Reform? (Y/N)	Choose an item.

\_\_\_\_\_  
Print Name & Initial of Person Completing

\_\_\_\_\_  
Date

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

Contractor's Name \_\_\_\_\_

**COST ANALYSIS FOR NON-COMPETITIVELY PROCURED AGREEMENTS IN  
EXCESS OF CATEGORY II**

Line Item Budget Category	Amount	% Allocated to this Agreement	Allowable	Reasonable	Necessary
Salaries					
Fringe Benefits					
Equipment					
Utilities					
Travel					
Miscellaneous					
Indirect cost/overhead					
<b>TOTAL</b>					

**CERTIFICATION**

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_



*Florida Department of Education*

Presented by:

The office of Contracts, Grants and Procurement Management Services