

# **Mail Processing Equipment**

## **State Term Contract**

### **Contract No.: 600-760-11-1**

Issue Solicitation Date: **September 23, 2010**

Solicitation Responses Due Date and Time:

**December 3, 2010 at 2:00 pm ET**

(See Section 1.3, Timeline, for All Solicitation Specific Date and Time Requirements)

**Administrator:**

**ANGELA CALDWELL, MBA**

**PURCHASING ANALYST**

**DIVISION OF STATE PURCHASING**

**DEPARTMENT OF MANAGEMENT SERVICES**

**4050 ESPLANADE WAY, SUITE 360**

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## **Section 1.0 Introduction**

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## 1.1 Purpose and Scope

The State of Florida (“State”), Department of Management Services (“Department”), invites interested Contractors to bid for the **Mail Processing Equipment**, including, mail sorters, folders, scales, meters, and other balance of line items. The purpose of the solicitation is to establish a new State Term Contract for the Mail Processing Equipment Contract for a three (3) year term with potential options for renewals for up to thirty-six (36) months or any part thereof, as allowed by Chapter 287.057 (14), Florida Statutes.

The intent of the solicitation is to obtain the most cost effective Mail Processing Equipment based in all respects in accordance with the solicitation documents and to the satisfaction of the Department.

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

## 1.2 Estimated Usage

The current Mail Processing Equipment during the 2009-2010 fiscal year accounted for approximately 14 million in annual spend over the State’s fiscal year (July 1-June 30). This figure is given only as a guideline for preparing an offer and should not be construed as representing actual or guaranteed purchases or leases under any new contract.

Product Group	Commodity Number	Item
1	600-660-030	Mail Machines
2	600-660-590	Mail Openers
3	600-620-480	Inserters
4	600-580-250	Folding Equipment
5	600-190-250	Burster, Paper/Form
6	252-030-xxx	Mail Related Software Systems
7	600-780-xxx	Sealing Machines
8	780-720-650-	3000 Electronic Scales
9	600-760-900	Postage Meter Rentals
10		Supplies – Ink <b>(For Cataloged ITEMS ONLY)</b>
11		<b>Balance of Product Line:</b> Percentage discount for other mail processing related equipment, accessories, supplies or services not requested in solicitation.

## 1.3 Timeline

The State Term Contract period, if awarded, is anticipated to begin on the date February 22, 2011, per Section 2.17, and to end February 21, 2014, with potential options to renew for three (3) years, as per Chapter 287, Florida Statutes.

The response deadline(s) shall be as reflected in Section 1.2, Timeline, of this solicitation. The MyFloridaMarketPlace Sourcing Tool’s time remaining clock is not the

official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

**DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED BELOW:**

<b>Event</b>	<b>Event Date</b>
<b>Issue ITB 05-600-760-T</b>	<b>September 23, 2010</b>
<b>Bidders Conference:</b> 4050 Esplanade Way Room 101 @1:00 pm (Attendance is Optional) <b>Conference # 888-808-6959 – Code # 4102426</b>	<b>October 14, 2010</b>
Questions from Contractors Due via Q&A Board <b>No later than 2:00 pm ET</b> within MyFloridaMarketPlace <b>Sourcing Tool</b> .	<b>October 29, 2010</b>
Post Answers to Contractor's Questions within MyFloridaMarketPlace <b>Sourcing Tool and Vendor Bid System</b> .	<b>November 19, 2010</b>
Solicitation Responses Due ( <b>No later than 2:00 pm EST</b> ) within MyFloridaMarketPlace <b>Sourcing Tool</b> (Some Required Documents via Mail)	<b>December 3, 2010</b>
Post Notice of Intended Award within <b>Vendor Bid System (Per Section 2.13, Electronic Posting of Notice of Intended Award)</b> .	<b>December 30, 2010</b>
<b>Contract Award – See Section 2.17</b>	<b>January 18, 2011</b>

#### **1.4 Eligible Users**

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

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

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

**Section 163.3164, Florida Statutes:**

- (10) "Governmental agency" means:
  - The United States or any department, commission, agency, or other instrumentality thereof.
  - This state or any department, commission, agency, or other instrumentality thereof.
  - Any local government, as defined in this section, or any department, commission, agency, or other instrumentality thereof.
  - Any school board or other special district, authority, or governmental entity.

**1.5 Solicitation Definition**

This solicitation is an Invitation To Bid. Submissions to this bid do not imply that you have a contract with the State of Florida, unless an award is made and a contract is signed by the Department and the Contractor.

**1.6 Lobbying During the Procurement Process**

The Service Provider or Respondent shall not lobby the legislative, judicial or executive branches or any State Agency on any aspect of this Solicitation during the procurement process (i.e. from time contract is advertised to execution of a contract) associated with the Contract. Violation of this restriction can be cause for disqualification from the procurement process.

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

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**SECTION 2.0  
GENERAL INSTRUCTIONS TO RESPONDENTS [PUR1001 (10/06)]**

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- 2.2 GENERAL INSTRUCTIONS**
- 2.3 ELECTRONIC SUBMISSION OF RESPONSES**
- 2.4 TERMS AND CONDITIONS**
- 2.5 QUESTIONS**
- 2.6 CONFLICT OF INTEREST**
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## 2.1 Definitions

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

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

## 2.2 General Instructions

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

## 2.3 Electronic Submission of Responses

Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

## 2.4 Terms and Conditions

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

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and Introductory Materials.

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



## **2.5 Questions**

Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

## **2.6 Conflict of Interest**

This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

## **2.7 Convicted Vendors**

A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

## **2.8 Discriminatory Vendors**

An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or transact business with any public entity.

## 2.9 Respondent's Representation and Authorization

In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

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

conduct inconsistent with any of the statements and representations made in the response.

- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

## **2.10 Manufacturer's Name and Approved Equivalents**

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

## **2.11 Performance Qualifications**

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

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

## **2.12 Public Opening**

Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1) (b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

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

Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu). If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

### **2.14 Firm Response**

The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

### **2.15 Clarifications/Revisions**

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

### **2.16 Minor Irregularities/Right to Reject**

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

### **2.17 Contract Formation**

The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

### **2.18 Contract Overlap**

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

### **2.19 Public Records**

Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless

exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

## **2.20 Protests**

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

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

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

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

## **2.21 Limitation on Vendor Contact with Agency During Solicitation Period**

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

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**SECTION 3.0  
SPECIAL INSTRUCTIONS TO RESPONDENTS**

- 3.1 CONTACT PERSON**
- 3.2 TERMS AND CONDITIONS**
- 3.3 DEFINITIONS**
- 3.4 WHO MAY RESPOND**
- 3.5 MYFLORIDAMARKETPLACE SOLICITATION OVERVIEW**
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- 3.11 STATE OBJECTIVES**
- 3.12 LOBBYING**

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### 3.1 Contact Person

Refer ALL Inquiries to:

**Angela Caldwell, MBA**  
**Purchasing Analyst**  
**Division of State Purchasing**  
**Department of Management Services**  
**4050 Esplanade Way, Suite 360**  
**Tallahassee, FL 32399-0950**  
**(850)488-4946 (voice)**  
**(850)414-6122 (facsimile)**  
[angela.caldwell@dms.myflorida.com](mailto:angela.caldwell@dms.myflorida.com)

**Please Note:** All solicitation related Questions must be submitted through the MyFloridaMarketPlace Sourcing Tool Q&A Board per Section 2.5; MyFloridaMarketPlace system Questions may be answered in the MyFloridaMarketPlace Solicitation Overview, Section 3.5. Any additional technical Questions related to the MyFloridaMarketPlace system can be directed to the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).

### 3.2 Terms and Conditions

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

All Responses are subject to the requirements, specifications, terms, and conditions of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Section 1.0, Introduction
- Section 6.0, Technical Specifications
- Section 5.0, Special Conditions
- Section 3.0, Special Instructions to Respondents
- Section 4.0, General Contract Conditions [PUR 1000 (10/06)]
- Section 2.0, General Instructions to Respondents [PUR 1001 (10/06)]
- Section 7.0, Price Sheet & Ordering Instructions and Forms

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

**This Section, 3.2, supersedes and replaces Section 2.4, Terms and Conditions.**

### 3.3 Definitions

The Definitions found and referenced in the General Instructions to Respondents [PUR1001 (10/06)], Section 2.1, and General Contract Conditions [PUR1000 (10/06)], Section 4.1, shall apply to this Section. The following additional terms are also defined:

- (a) "State" means the State of Florida.
- (b) "Department" means the Florida Department of Management Services.
- (c) "Procurement Officer", "Contract Manager", or "Contract Administrator" means the Buyer's contracting personnel, as identified in Section 3.1 or as amended by the Department.
- (d) "Vendor(s)" means the entity that believes itself capable and is in the business of providing a Commodity and / or service similar to those within the solicitation, and may or may not respond to the solicitation.
- (e) "Contractor(s)" means the Respondent that has been awarded and contracts to sell Commodities and / or contractual services, which meet the requirements, specifications, terms, and conditions herein, to an Eligible User.
- (f) "Government Book Price" represents the manufacturer's pre-determined selling price for a specific item, or list of items, to all non-contracted government entities.
- (g) "OEM(s)" or "Manufacturer(s)" means the Original Equipment Manufacturer or original producer or provider of a Commodity and / or service.
- (h) "Dealer(s)" means a Manufacturer's certified representative authorized by the Manufacturer to market, sell, provide, and / or service specific Commodities and / or services of the Manufacturer in the State of Florida.
- (i) "Private Label Distributor" means the vendor who may not be the equipment manufacturer but whose name appears on the equipment.
- (j) "Proprietary Information" Any trade secret or confidential business information that is contained in a bid or proposal or included in a particular contract.
- (k) "Commodity(ies)" means a tangible good, which may or may not meet the specifications herein.
- (l) "Commodity Code(s)" means the State of Florida specified numeric code for classifying Commodities and contractual services which meet specific requirements, specifications, terms, and conditions herein.
- (m) "Responsible vendor" means 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. (Section 287.012(24), F.S.)
- (n) "Responsive bid," "responsive proposal," or "responsive reply" means a bid, or proposal, or reply submitted by a responsive and responsible vendor that conforms in all material respects to the solicitation. (Section 287.012(25), F.S.)
- (o) "Responsive vendor" means a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation. (Section 287.012(26), F.S.)



- (p) "Successful Vendor" means the company that is awarded and has an executed contract with the State of Florida for the goods and services identified in this solicitation document. May also be referred to as "Contractor", "Prime Vendor", or "Awarded Vendor" within this document.
- (q) "Suggested Retail Price" (SRP) means the most recently published undiscounted price.
- (r) "Vendor" Organization/individual submitting a proposal in response to this bid. May also be referred to as "Respondent" throughout this document
- (s) MSRP(s)" is an acronym for the Manufacturer's Suggested Retail Price. It represents the Manufacturer's pre-determined and recommended retail selling price, list price, published price, or other usual and customary price that would be paid by the purchaser for specific Commodities and contractual services without benefit of a Contract resulting from the solicitation, if awarded.
- (t) "MSRP List(s)" is an acronym for the Manufacturer's Suggested Retail Price List, a collection of MSRPs and related information. In the priority listed below, only the following are acceptable sources of current MSRPs and MSRP Lists for use under the solicitation and resulting Contract, if awarded:
- i. Manufacturer's Annual U.S. Price Book, and
  - ii. Manufacturer's official website.
  - iii. MSRPs and MSRP Lists must be formally published, publicly listed and available, and verifiable by the Department. MSRPs and MSRP Lists may not be custom or solely developed, created, maintained, altered, revised, changed, modified, or utilized for purposes of the solicitation and resulting Contract, if awarded.

### 3.4 Who May Respond

Fully capable manufacturers, their wholly owned United States distribution company, or a **single designated and certified distributor** as evidenced by the completed, **Section 7.4** who are in good standing with the State of Florida, meet the Technical Specifications, and which possesses the financial capability, experience and personnel resources to provide products and services of the scope and breadth described in this ITB. **PLEASE NOTE: There shall be one and only one bidder per manufacturer.**

Manufacturers may use their distributor network to fulfill the requirements of the Contract. However, in each and every case, the manufacturer, not the distributor, will be held accountable for performance under the Contract and shall be the focal point for all performance issues.

**Manufacturers may appoint a single dealer or distributor as their representative in the solicitation process. If so, the manufacturer must certify that the single representative will be fully responsible for the signing of the contract. That certified representative will be fully responsible for the fulfillments of the Contract requirements. The signing Contractor, if a dealer or distributor shall not be permitted, in any form, to have other dealers or distributors as subcontractor under this contract.**

The State Agencies and Eligible Users retain the right to request additional information pertaining to the Respondent's ability and qualifications to accomplish all services described in this ITB as deemed necessary during the ITB or after contract award.

### **3.5 MyFloridaMarketPlace Solicitation Overview**

The Department uses the MyFloridaMarketPlace System ("MFMP") to receive Responses to solicitations electronically.

#### **3.5.1 MyFloridaMarketPlace Vendor Registration Application**

Vendors must have a revised, current, and complete Vendor Registration Application identified on the MyFloridaMarketPlace Vendor Registration System at: <https://vendor.myfloridamarketplace.com/>. If you have not registered or have requested a registration update, please be advised that a minimum of forty-eight (48) hours will be required for access to the MyFloridaMarketPlace Sourcing Tool. Completion of this registration is mandatory for those Vendors who wish to submit a Response.

#### **3.5.2 MyFloridaMarketPlace Sourcing Tool Training**

1. This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool at: <https://sourcing.myfloridamarketplace.com/>.
2. Optional training on how to respond to this solicitation electronically is offered at:  
[http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm).
3. Download and review the document titled "ITB Event User Guide."
  - For all technical questions about the Sourcing Tool, Vendors should contact the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or: [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).
  - For additional information or assistance on using the Sourcing Tool, please visit the MyFloridaMarketPlace website at the following link: [http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm).

This site includes:

- a. Solicitation User Guides
- b. On Demand web-based Sourcing training link
- c. WinZip FAQs
- d. Vendor FAQs

#### **3.5.3 MyFloridaMarketPlace Sourcing Tool Tips**

When working in the MyFloridaMarketPlace Sourcing Tool, be aware of the twenty (20) minute time-out function in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty (20) minutes to ensure your entries since you last saved are not lost.

Please note that clicking the SAVE button within the MyFloridaMarketPlace Sourcing Tool only saves your solicitation Responses. **The SAVE button does not transmit your solicitation Response to the State.** In order to transmit your solicitation Response to the State, you must click the SUBMIT button on the SUMMARY page of the solicitation Response.

After clicking the SUBMIT button, it is the Respondent's responsibility to check any submitted Response within the MyFloridaMarketPlace Sourcing Tool to verify that the Response is accurately and completely captured within the MyFloridaMarketPlace Sourcing Tool. Respondents must do this while there is sufficient time remaining in the solicitation period in the event you discover an error and need to resubmit a revised Response.

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

- Go to the "My Bids / My Responses" tab within the MyFloridaMarketPlace Sourcing Tool after you submitted your Response.
- Click on the Response ID number of your last submitted Response.
- Review entire Response to make sure all responses are complete, accurate, and as you intended to submit.
- Minimum areas to check are:
  - Text boxes – Is your entire answer viewable?
  - Yes/No questions – Is the displayed answer correct?
  - All uploaded document files – Can you open attached document(s) and clearly view entire content? Does the content of the file(s) match your intended Response within the MyFloridaMarketPlace Sourcing Tool (e.g., not an earlier version, incomplete copy, or working copy)?
  - Pricing and Other Information – Are all Prices and other information you intended to submit visible and accurately captured within MyFloridaMarketPlace Sourcing Tool?
  - Required Items - Are all items listed in the solicitation completed as required within the MyFloridaMarketPlace Sourcing Tool?

### 3.5.4 MyFloridaMarketPlace and Vendor Bid System Email Notification

Vendors are reminded that the sourcing tools' Email Notifications are an option provided as a courtesy. **The State of Florida is not under any obligation and does not guarantee that Vendors will receive Email Notifications concerning the posting, addendum, amendment, awards or close of solicitations.** Vendors are responsible for checking the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System for information and updates concerning solicitations.

### 3.6 Amendments or Addendums to the Solicitation Documents

The Department reserves the right to issue Amendments or Addendums to the solicitation. **Notice of any Amendment or Addendum will be posted within the MyFloridaMarketPlace Sourcing Tool and / or the Vendor Bid System.** Such notice, if required, will contain the appropriate details for identifying and reviewing the formal notices and / or changes to the solicitation. Each Vendor is responsible for monitoring

the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System sites for new or changing information concerning the solicitation.

### 3.7 Estimated Quantities

To assist Respondents in the solicitation process, average estimated annual historical spend information is provided. This figure shall not be construed as a commitment.

- **Estimated Annual Spend: \$14 Million (\$14M USD)**

The above figure reflects estimated annual spend generated by State Agencies and Eligible Users of past contract spend for similar commodities and / or contractual services.

Additional estimations of usage, quantity, volume, weight, spend, and / or other estimates may be provided by the Department in the solicitation documents. The figures provided are to assist Respondents in the solicitation process and / or to assist the Department in evaluating, measuring, and / or scoring Responses to the solicitation and shall not be construed as commitments.

### 3.8 Submittal of Response

#### 3.8.1 Submittal of Offer

Respondents will **submit their offers via the MyFloridaMarketPlace Sourcing Tool** (<https://sourcing.myfloridamarketplace.com/>). The Response shall include all appropriate pricing, discounts, documents, forms, files, question responses, and information responses located within the MyFloridaMarketPlace Sourcing Tool for the solicitation. All required or requested pricing, discounts, documents, forms, files, question responses, and information responses will be entered electronically in the MyFloridaMarketPlace Sourcing Tool during this solicitation as indicated. If no indication for submission is provided for required or requested documents or files, or if instructions to mail a specific document, form, or file are provided, then those specific documents, forms, or files only shall be mailed to the attention of the Contact Person in Section 3.1 of the solicitation.

The outer packaging of mailed documents shall clearly state: Solicitation Title, Number (**ITB No. 05-600-760-T; Mail Processing Equipment**), and the Solicitation Responses Due Date and Time from the Timeline in Section 1.2 of the solicitation.

**Failure to provide all required information within the solicitation Response shall result in rejection of the Response.**

In the event the Respondent submits more than one Response in the MyFloridaMarketPlace Sourcing Tool, only the last Response received by the system shall be considered for award. Previous Responses will not be visible to the State of Florida. Responses (other than document, file, or form submissions indicated by the solicitation to be mailed) not submitted within the MyFloridaMarketPlace Sourcing Tool shall be rejected. The system will require Respondents to review the Solicitation Preparation Checklist (Section 7.3) and confirm that they have completed all required activities before receiving the offer. The Solicitation Preparation Checklist does not relieve the Respondent of

responsibility for ensuring that all requirements of the solicitation are included with the solicitation Response. The Solicitation Preparation Checklist does not have to be provided with the Response.

Each Respondent is responsible for ensuring that their offer is accurately and completely submitted before the Solicitation Responses Due Date and Time noted on the Timeline in Section 1.2 of the solicitation. The Department shall not consider late offers and the System will NOT accept offers after the Solicitation Responses Due Date and Time specified in the Timeline. **The Response must be accurate, complete, and submitted in the MyFloridaMarketplace Sourcing Tool, or as otherwise provided in the solicitation documents, by the date and time specified on the Timeline or the Response shall be deemed non-responsive.**

### 3.8.2 Price Sheets

Price Sheets Responses will be submitted in the locations and formats provided in the Price Sheet Section 7.1, as described and / or referenced within this Section, 3.8.2. The Price Sheet in Section 7.1, is contained within a separate Microsoft Excel™ workbook. There are **twelve (12) individual** tabs within the Price Sheet.

Respondents are encouraged to bid for as many of the provided Product Groups and Manufacturer / Brand Names (with their associated fields) as they may choose to offer, but for each Product Groups and Manufacturer / Brand Name offered, all related information must be supplied and submitted in the appropriate fields, provided locations, and formats required on the Price Sheet, Section 7.1. Unless specifically noted as optional, the Respondent must complete the following fields for each Product Groups and Manufacturer / Brand Name offered in the Section 7.1, under the appropriate tabs provided on the Price Sheet:

- Organization Name;
- Equipment MSRP Discount [##.##%];
- MSRP List [Include MSRP List Name, MSRP List Date, and MSRP List Pages / Sections]. Note: See Section 3.8.5, Supporting Documents, MSRP List for additional information.

Should a Respondent not provide a specific Product Groups or Manufacturer / Brand Name, they shall leave the associated line (row), space(s), and field(s) untouched or blank (do not delete the line (row)); it is not required to mark a line as "No Bid". Where a Product Groups and Manufacturer / Brand Name is offered, the Respondent must provide the associated Base Equipment MSRP Discount and OEM Options, Accessories, & Implements MSRP Discount along with supplying the applicable MSRP List information.

All Prices will be in U.S. Dollars, whole (\$USD; e.g., \$999.999); all Discounts shall be a positive Percentage to the one-hundredth decimal place (%; e.g., 99.99%); and all Dates will be in full standard numerical format (e.g., ##/##/####). The Respondent agrees and confirms that the prices (net after discount, as applicable) offered do not exceed the MSRP for the respective Commodity.

The Respondent may offer only Commodities that meet or exceed the solicitation's requirements, specifications, terms, and conditions, and for which

the Product Groups and Manufacturer / Brand Name is listed in the Price Sheet (Section 7.1). Should a Respondent submit a Response containing a Commodity that does not meet or exceed the solicitation's requirements, specifications, terms, and conditions, and for which the Product Groups and Manufacturer / Brand Name is not listed in the Price Sheet, that offer will be disqualified as non-responsive. The Department in its sole discretion shall determine the acceptability of a Manufacturer / Brand Name and Commodity offered.

The Price Sheet, Section 7.1, shall be submitted to the Department electronically using the MyFloridaMarketPlace Sourcing Tool, per Section 3.8.1 of the solicitation. **Failure to properly submit or provide a compliant Section 7.1, Price Sheet, with the Response shall result in the Respondent being deemed non-responsive.**

**Any changes or addition to any required document shall not be accepted and shall be deemed non-responsive and bids shall not be accepted. All questions and concerns to be addressed during the question and answer section indicated in Section 1.3.**

### **3.8.3 Ordering Instructions**

Respondent shall submit one (1) completed Ordering Instructions Form (contained within Section 7.2, Ordering Instructions) with their Response identifying persons responsible for answering questions about the Response and administering the Contract, if awarded, and shall provide information necessary for placing orders and remitting payments under the Contract, if awarded. Additional Ordering Instruction requirements, terms, and conditions can be found in Section 5.5, Ordering Instructions Information. The Ordering Instructions will be submitted under Section 7.2, to the Department electronically using the MyFloridaMarketPlace Sourcing Tool, per Section 3.8.1 of the solicitation.

**Failure to provide the Ordering Instructions Form with the Response may result in the Respondent being deemed non-responsive.**

### **3.8.4 Full-Service Repair Facilities**

Respondent must offer commodities and contractual services having a minimum of one (1) Manufacturer's authorized Full-Service Repair Facility available in the State of Florida from which the Commodities offered may be installed, serviced, and repaired under Warranty and the requirements, specifications, terms, and conditions of the Contract, if awarded. Provision of a Manufacturer's authorized Full-Service Repair Facility shall be a requirement for the entire Period of Agreement, Section 5.2.

### **3.8.5 Supporting Documents**

Respondent shall submit the following Supporting Documents with their response, as noted:

- **MSRP List:** With the bid, respondent shall provide one (1) applicable, current, complete, and separate MSRP List (as defined under Section 3.3(n)) for each Product Groups and Manufacturer / Brand Name offered under Section 7.1 & 7.2, Price Sheet & Ordering Instructions.

Therefore, multiple MSRP Lists may be required (e.g., by Product Groups and Manufacturer / Brand Name).

The MSRP List will include the Manufacturer's Item Number, Manufacturer's Item Description, and MSRP for only and each of the Manufacturer / Brand Name and Commodity Group's applicable Base Equipment; OEM Options, Accessories, & Implements; and OEM Parts offered. The MSRP List must include the applicable Commodity Group, Manufacturer / Brand Name, MSRP List Name, and will be provided in Section 7.1, Price Sheet, in the areas provided.

The Supporting Documents shall be mailed to the Department per Section 3.1 of the solicitation. **Failure to provide accurate and compliant Supporting Documents with the Response will result in the Respondent being deemed non-responsive.**

### **3.8.6 Manufacturer's Bidders Authorization & Certification Form**

Respondent shall submit one (1) completed **Manufacturer's Bidders Authorization & Certification Form** (Section 7.4). For each Manufacturer a single bidder shall be assigned to participate in the solicitation. Each manufacturer will designate a single distributor, retailer, or dealer or the Manufacturer themselves who are authorized to participate in this solicitation. **Bidders without a signed Manufacturer's Bidders Authorization & Certification Form (Section 7.4) shall be deemed non-responsive and their submissions shall not be accepted.**

**The Manufacturer's Certification form must be executed by the Manufacturer only and may not be completed by a single distributor, retailer, or dealer or third-party.** Dealer agreements will not be accepted in lieu of a Manufacturer's Certification form. The Manufacturer's Certification form shall be submitted to the Department through **MyFloridaMarketPlace Sourcing Tool**.

**Failure to provide a complete and compliant Manufacturer's Certification form with the Response will result in the Respondent being deemed non-responsive.**

### **3.9 Determination of Responsiveness**

The Department shall review eligible responsive offers to determine responsiveness based on but not limited to: compliance with Section 3.4, 3.8 and USPS regulations as found in Mailing Standards of the United States Postal Service Domestic Mail Manual: Commercial Mailing Service at [http://pe.usps.com/text/dmm300/dmm300\\_landing.htm](http://pe.usps.com/text/dmm300/dmm300_landing.htm).

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

### 3.10 Basis for Award

The Department shall make a single and/or multiple award statewide for each Manufacturer / Brand Name (Line Number) per Product Groups to the responsive and responsible Respondent.

**Bids shall be evaluated based on the price submitted after the proposed discount is calculated. If it is in the best interest of the State, multiple awards are possible if the other bids are within 10% of the lowest priced bid for each Product Group of related size and volume capabilities.**

Mail Machines shall be placed on the Price Sheet; Section 7.1, in the correct location provided based on the equipments volumes:

**Low Volume Equipment** - Volume - 0 - 50 pieces per minute

**Medium Volume Equipment** - Volume - 51 - 200 pieces per minute

**High Volume Equipment** - Volume - 200 + pieces per minute

The Department reserves the right to make awards as determined to be in the best interest of the State of Florida, and to accept or reject any and all offers, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State of Florida's best interest.

### 3.11 State Objectives

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

#### 3.11.1 Diversity

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

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



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

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

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

Quarterly Reports of revenue paid to certified CMBE and certified CSDVBE Contractors (agents or Sub-Contractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other Eligible User) level.

### **3.11.2 Environmental Considerations**

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

### **3.11.3 Certification of Drug-Free Workplace Program**

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, one preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the Certification of Drug-Free Workplace form included in Section 7.6 of the solicitation. The Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation.

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

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

offers is available at <http://www.respectofflorida.org>. The Contractor shall describe how it will address the use of RESPECT in offering the items of the solicitation.

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

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section 946.515(2), and (4), F.S.; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

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

### **3.12 Lobbying**

Please reference Section 2.21, Limitation on Vendor Contact with Agency during Solicitation Period.

Respondents are advised that the following will be included in the Contract for these services: In accordance with Section 216.347, Florida Statutes, and as provided herein, the Contractor may not expend any State funds for the purpose of lobbying the legislature, the judicial branch, the executive branch, or any State Agency.

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**SECTION 4.0**  
**GENERAL CONTRACT CONDITIONS [PUR1000 (10/06)]**

- 4.1 DEFINITIONS
- 4.2 PURCHASE ORDERS
- 4.3 PRODUCT VERSION
- 4.4 PRICE CHANGES APPLICABLE ONLY TO TERM CONTRACTS
- 4.5 ADDITIONAL QUANTITIES
- 4.6 PACKAGING
- 4.7 INSPECTION AT CONTRACTOR'S SITE
- 4.8 SAFETY STANDARDS
- 4.9 AMERICANS WITH DISABILITIES ACT
- 4.10 LITERATURE
- 4.11 TRANSPORTATION AND DELIVERY
- 4.12 INSTALLATION
- 4.13 RISK OF LOSS
- 4.14 TRANSACTION FEE
- 4.15 INVOICING AND PAYMENT
- 4.16 TAXES
- 4.17 GOVERNMENTAL RESTRICTIONS
- 4.18 LOBBYING AND INTEGRITY
- 4.19 INDEMNIFICATION
- 4.20 LIMITATION OF LIABILITY
- 4.21 SUSPENSION OF WORK
- 4.22 TERMINATION FOR CONVENIENCE
- 4.23 TERMINATION FOR CAUSE
- 4.24 FORCE MAJEURE, NOTICE OF DELAY, AND NO DAMAGES FOR DELAY
- 4.25 CHANGES
- 4.26 RENEWAL
- 4.27 PURCHASE ORDER DURATION
- 4.28 ADVERTISING
- 4.29 ASSIGNMENT
- 4.30 ANTITRUST ASSIGNMENT
- 4.31 DISPUTE RESOLUTION
- 4.32 EMPLOYEES, SUBCONTRACTORS, AND AGENTS
- 4.33 SECURITY AND CONFIDENTIALITY
- 4.34 CONTRACTOR EMPLOYEES, SUBCONTRACTORS, AND OTHER AGENTS
- 4.35 INSURANCE REQUIREMENTS
- 4.36 WARRANTY OF AUTHORITY
- 4.37 WARRANTY OF ABILITY TO PERFORM
- 4.38 NOTICES
- 4.39 LEASES AND INSTALLMENT PURCHASES
- 4.40 PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (PRIDE)
- 4.41 PRODUCTS AVAILABLE FROM THE BLIND OR OTHER HANDICAPPED
- 4.42 MODIFICATION OF TERMS
- 4.43 COOPERATIVE PURCHASING
- 4.44 WAIVER
- 4.45 ANNUAL APPROPRIATIONS
- 4.46 EXECUTION IN COUNTERPARTS
- 4.47 SEVERABILITY

#### 4.1 Definitions

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

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

#### 4.2 Purchase Orders

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

#### 4.3 Product Version

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

#### 4.4 Price Changes Applicable only to Term Contracts

If this is a term contract for commodities or services, the following provisions apply:

- (a) **Quantity Discounts** Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
- (b) **Best Pricing Offer** During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of

the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

- (c) **Sales Promotions** In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
- (d) **Trade-In** Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S
- (e) **Equitable Adjustment** The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

#### **4.5 Additional Quantities**

For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

#### **4.6 Packaging**

Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

#### **4.7 Inspection at Contractor's Site**

The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

#### **4.8 Safety Standards**

All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a

manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

#### **4.9 Americans with Disabilities Act**

Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

#### **4.10 Literature**

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

#### **4.11 Transportation and Delivery**

Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

#### **4.12 Installation**

Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

#### **4.13 Risk of Loss**

Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the

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

#### **4.14 Transaction Fee**

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

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

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

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

#### **4.15 Invoicing and Payment**

Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

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

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments

by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

#### **4.16 Taxes**

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

#### **4.17 Governmental Restrictions**

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

#### **4.18 Lobbying and Integrity**

Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.



#### **4.19 Indemnification**

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

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

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

#### **4.20 Limitation of Liability**

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

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

any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

#### **4.21 Suspension of Work**

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

#### **4.22 Termination for Convenience**

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

#### **4.23 Termination for Cause**

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

#### **4.24 Force Majeure, Notice of Delay, and No Damages for Delay**

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or

potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

#### **4.25 Changes**

The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

#### **4.26 Renewal**

Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

#### **4.27 Purchase Order Duration**

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

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

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

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

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

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

#### **4.28 Advertising**

Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

#### **4.29 Assignment**

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

#### **4.30 Antitrust Assignment**

The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims

for such overcharges as to goods, materials or services purchased in connection with the Contract.

#### **4.31 Dispute Resolution**

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

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

#### **4.32 Employees, Subcontractors, and Agents**

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

#### **4.33 Security and Confidentiality**

The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

#### **4.34 Contractor Employees, Subcontractors, and Other Agents**

The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

#### **4.35 Insurance Requirements**

During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

#### **4.36 Warranty of Authority**

Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

#### **4.37 Warranty of Ability to Perform**

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

#### **4.38 Notices**

All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

#### **4.39 Leases and Installment Purchases**

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

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

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

#### **4.41 Products Available from the Blind or Other Handicapped**

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

#### **4.42 Modification of Terms**

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

#### **4.43 Cooperative Purchasing**

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

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management

Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

#### **4.44 Waiver**

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

#### **4.45 Annual Appropriations**

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

#### **4.46 Execution in Counterparts**

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

#### **4.47 Severability**

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

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**SECTION 5.0  
SPECIAL CONDITIONS**

- 5.1 DEFINITIONS**
- 5.2 PERIOD OF AGREEMENT**
- 5.3 CATALOG DATA**
- 5.4 INTERNET POSTING OF AUTHORIZED LISTS**
- 5.5 ORDERING INSTRUCTIONS INFORMATION**
- 5.6 PRICE ADJUSTMENTS**
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- 5.8 CONTRACT PRICE QUOTES**
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- 5.13 TRANSPORTATION AND DELIVERY**
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- 5.15 ANNUAL CONTRACT SALES SUMMARY**
- 5.16 QUARTERLY SALES SUMMARY REPORTS**
- 5.17 TRANSACTION FEE REPORTS**
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- 5.19 CUSTOMER SERVICE SUPPORT**
- 5.20 INSURANCE REQUIREMENTS**
- 5.21 RENEWAL PRICING**

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## **5.1 Definitions**

The Definitions found and referenced in the General Contract Conditions [PUR1000 (10/06)], Section 4.1, and the Definitions found and referenced in Section 3.3, Definitions, shall apply to this Section 5.1, Definitions.

## **5.2 Period of Agreement**

The State Term Contract shall be in effect beginning on the Contract Formation date, per Section 2.17, and end February 20, 2014. This agreement has the option to renew for one (1) additional three (3) year period, or any portion or portions thereof. Renewal is contingent upon satisfactory performance by the Contractor and will not be subject to pricing or discount adjustments.

## **5.3 Catalog Data**

The MyFloridaMarketPlace (“MFMP”) third-party service provider is responsible for converting Contract catalog information into a format supported by the system. To accomplish this conversion, the Contractor, if requested, shall provide certain information in electronic format directly to the service provider (Note: This format is generally Microsoft Excel™.).

Within ten (10) business days of written notice from the MFMP service provider, Contractor shall provide all information necessary to facilitate electronic purchases from this Contract. Such information may include, but is not limited to, Contractor Name, Manufacturer / Brand Name, SKU, Commodity Description, unit of measure, and Contract Price, per Section 5.6. Contractor shall provide this information in the format required by the MFMP service provider. No costs or expenses associated with providing this information shall be charged to the State, Department, Eligible Users, or MFMP service provider. With the Contractor’s timely assistance, the MFMP service provider shall create and maintain web-based placement of the requested Contract information.

## **5.4 Internet Posting of Authorized Lists**

During the Contract Period of Agreement, Section 5.2, the Department shall maintain on the internet a working copy of the complete Contract, including, but not limited to, the Section 7.1 & 7.2, Price Sheet & Ordering Instructions, with the associated and Department approved MSRP List(s). The MSRP List(s) will be provided to the Department by the Contractor in electronic format as stipulated in Section 3.9.5, Supporting Documents, MSRP List; as required herein; and in accordance with the prices, discounts, requirements, specifications, terms, and conditions of the Contract.

The Contractor agrees to not maintain, publish, provide, or allow discovery of competing, conflicting, unofficial, unauthorized, or non-Department approved contract similar documents to or by State Agencies or Eligible Users. However, the Contractor may manually or electronically direct Eligible Users to the Department’s Contract website. The Contractor shall not accept any orders using unofficial MSRP List(s) until the Department approves the respective MSRP List(s) and publishes it / them to the Contract website as noted above.

The Department may, in its sole discretion, prohibit any update or change of the MSRP List(s), or direct a Contractor to undo any update or change made. In addition, the Department may direct rescission of any purchase entered into on the basis of

competing, conflicting, unofficial, unauthorized, or non-Department approved documents or lists.

## 5.5 Ordering Instructions Information

The Ordering Instructions will be contained or referenced via a link from the individual Line No.'s Organization Name field in the Section 7.2. User will be able to click on the specific link for the associated Ordering Instructions. This information shall include, but not be limited to, the Contractor's Organization Information, the Contractor's Representative Information, the Contractor's Remit-To Information, and a list of Department maintained instructions to assist State Agencies and Eligible Users in placing orders under the Contract.

Should the Contractor awarded be the Manufacturer (not a Dealer) of the commodities and / or contractual services awarded, they may also include specific Dealer information within the Ordering Instructions in the provided locations of service in Section 7.9. **The Manufacturer as Contractor who selects to also include specific Dealer information must submit a list of their designated dealers, service centers or representatives for each county. Also it is the Manufacturer's responsibility to require all dealers, service centers or representatives be registered in the State of Florida Vendor Registration System (Vendor Information Portal ("VIP"): <https://vendor.myfloridamarketplace.com/>).** A Dealer as Contractor may not include other Dealer's information in the Ordering Instructions. **The Manufacturer as Contractor is fully responsible for compliance with all the prices, discounts, requirements, specifications, terms, and conditions of the Contract and for any actions or inactions of the Dealer(s) they include in the Ordering Instructions.**

It is the Contractor's responsibility to notify the Department of any updates to organization information, relevant personnel, and contact information contained in the Ordering Instructions. The Contractor shall notify the Department of a requested change to the Ordering Instructions in writing (email is acceptable) and received by the Contract Manager no later than five (5) business days prior to the effective date of the proposed change. The Department may accept or reject any proposed change, or may unilaterally amend the Ordering Instructions as it deems is in the best interest of the State and / or will best assist State Agencies and Eligible Users.

Please Note: Any changes to the Ordering Instructions will also require the Contractor to appropriately update their vendor registration in the State of Florida Vendor Registration System (Vendor Information Portal ("VIP"): <https://vendor.myfloridamarketplace.com/>).

## 5.6 Price Adjustments

**Please Note: This is in addition to Section 4.4**

Prices shall be firm against increase for twelve (12) months from the original effective date of contract and no more than **one (1) time per calendar year**. After this period, requests for increase or decrease may be submitted to the State if there has been, or is, a documented increase in cost, with the State reserving the right to accept or reject request within thirty (30) days after receipt of request.

**Price increase or decrease may be requested by either party one (1) time per year** by using the Producer Price Index (PPI) for Industry: Office Machinery Mfg/Mailing, Letter Handling and Addressing Machines, as published by the U.S. Bureau of Labor Statistics. The rate adjustments will be based on the PPI (Series ID PCU333313333313A).

The last published non-preliminary Producer Price Index for the month prior to award/anniversary date of the contract will be the reference date for the beginning (old) PPI Index. The most recent published Producer Price Index prior to the contract year to be priced will establish the reference data for the New PPI Index.

The price escalation / de-escalation formula will be tied to the change in the commodity for Office Machinery Mfg/Mailing, Letter Handling and Addressing Machines, PPI Series ID PCU333313333313A. The formula is calculated by dividing the New PPI Index by the Old PPI Index to identify the Price Escalation Rate. The Old Price is multiplied by the Price Escalation Rate to determine the New Price. This formula applies after Year 1 of the contract and on each subsequent anniversary of the contract effective date. Details on how this PPI has historically performed can be found at the Bureau of Labor Statistics web site and following the below steps:

- i. Go to BLS website: <http://www.bls.gov/ppi/>
- ii. Navigate to the "Get Detailed PPI Statistics" section
- iii. Select "Create Customized Tables (one screen)"
- iv. Click on the link titled "Industry Data"
- v. Type "333313" in the "Select An Industry" box for the Office Machinery Mfg category and hit the adjacent "Find" button.
- vi. Select "333313333313A" for Mailing, letter handling, and addressing machines in the "Select One or More Products" box and hit the adjacent "Find" button. A table similar to the one shown below will be created.

**Example:**

Feb 2012 is the first year anniversary of this contract

Old PPI: Jan 2011 PPI for Mail Equipment = 117.9

New PPI: Jan 2012 PPI for Mail Equipment = 119.9

**Price Escalation / De-escalation Formula:**

New PPI / Old PPI = Price Escalation Rate

"Old Price" x "Price Escalation Rate" = New Price (rounded up to the nearest %)

**Calculation:**

$119.9 \div 117.9 = 1.0169$  which equates to a Price Escalation Rate of 1.69%

$\$50.00$  (unit price) x 1.0169 =  $\$50.85$  (New unit price for this product)

Feb 2013 is the second year anniversary of this contract

Old PPI: Jan 2012 PPI for Mail Equipment = 119.9

New PPI: Jan 2013 PPI for Mail Equipment = 116.4

**Price Escalation / De-escalation Formula:**

New PPI / Old PPI = Price Escalation Rate

"Old Price" x "Price Escalation Rate" = New Price (rounded up to the nearest %)

**Calculation:**

$116.4 \div 119.9 = -3.5$  which equates to a Price De- Escalation Rate of 3.5%

$\$50.85$  (unit price 2012) x -3.5 =  $\$49.07$  (New unit price for 2013)

1. Any increases accepted during the term of the contract shall not become effective until thirty (30) days after the State provides written approval of request.
2. All requests for price adjustments must be substantiated by manufacturer's certification of cost or other documentation and approved by State prior to implementation.
3. There can only be one rate adjustment per six (6) month period and the maximum net rate percentage increase or decrease per six (6) month period **shall not exceed 5% CAP**.

## **5.7 Purchases by State Agencies and Eligible Users**

Any contracted commodities and contractual services, must be in compliance with the user's applicable procurement and fleet statutes, laws, ordinances, codes, rules, policies, and procedures. Any non-contract products and services must be ordered and invoiced as non-contract options separately from Contract purchases in accordance with the user's applicable procurement and fleet statutes, laws, ordinances, codes, rules, policies, and procedures.

## **5.8 Contract Price Quotes**

State Agencies and Eligible Users may request and the Contractor will provide within five (5) business days no charge Contract Price Quotes under the Contract. The Contractor agrees that Contract Price Quotes provided to an State Agencies and Eligible User shall be submitted for only those Product Groups, Manufacturer / Brand Names, and Commodities which the Contractor is awarded, and that the awarded Commodities quoted are the minimum required to meet the State Agencies and Eligible User's needs. All Contract Price Quotes will be according to the Prices, Discounts, requirements, specifications, terms, and conditions of the Contract, and will include the following:

- Quotation Date.
- Quotation Number (as applicable).
- Agency or OEU Contact Information
- Contractor Information.
- State Term Contract Number and Name.
- Total State Term Contract negotiated Price

## **5.9 Sales Literature / Technical Information**

During the Term of the Contract, the Contractor shall supply no charge printed Sales Literature and Technical Information to State Agencies and Eligible Users upon request, unless the literature and information requested is available on the Contractor's or Manufacturer's website. If the literature and information is available on the Contractor's or Manufacturer's website, the Contractor will direct the requesting State Agencies and Eligible User to the specific website location. All State Agencies and Eligible User requests for Sales Literature and Technical Information shall be completed by the Contractor within five (5) business days.

## **5.10 Purchase Orders**

Under the Contract, State Agencies and Eligible Users may place orders using a Purchase Order or using a Purchasing Card, per Section 5.12. Purchase Orders issued by State Agencies and Eligible Users shall be in accordance with the Ordering Instructions (contained within Section 7.1 & 7.2, Price Sheet & Ordering Instructions) and the Prices, Discounts, requirements, specifications, terms, and conditions of the

Contract. The Contractor and the State Agencies and Eligible User agree to the following:

- Under the Contract, State Agencies and Eligible Users may only place and Contractors shall only accept Purchase Orders for Product Groups and Manufacturer / Brand Name and Commodities the Contractor is awarded.
- For each Commodity and contractual service ordered, State Agencies and Eligible Users are responsible for notating the following information on and with the Purchase Order.
  - State Agencies and Eligible User's issuing contact person and contact information;
  - Contractor Information from the Ordering Instructions;
  - State Term Contract Number and Name;
  - Any State Agencies and Eligible User special instructions, requirements, terms, and conditions;
- Contractor will place all orders received with the Manufacturer(s) within seven (7) calendar days after receipt of the Purchase Order ordered in their possession and can deliver the order to the State Agencies and Eligible User within fourteen (14) calendar days. All orders placed with the Manufacturer(s) shall be made in full compliance with the requirements, specifications, terms, and conditions herein.
- Contractor shall honor all Purchase Orders received during the Contract Period of Agreement (Section 5.2) for Product Groups and Manufacturer / Brand Name Commodities the Contractor is currently awarded (Section 7.1 & 7.2, Price Sheet & Ordering Instructions).
- Contractor, from receipt of the Purchase Order until delivery is made to the ordering State Agencies and Eligible User, shall promptly notify the State Agencies and Eligible User of any potential delivery delays. Additionally, the Contractor must promptly advise the ordering State Agencies and Eligible User if their order may not be delivered prior to the end of the State Agencies and Eligible User's Fiscal Year (State Agency's Fiscal Year ends June 30). **Evidence of intentional delays in delivery shall be cause for default proceedings and / or Contract termination.**

This Section 5.10, Purchase Orders, does not modify or replace Section 4.2, Purchase Orders, of the Contract.

## 5.11 Purchasing Card

The State of Florida and numerous State Agencies and Eligible Users have adopted and implemented various Purchasing Card programs using different universal card formats (e.g., American Express, MasterCard, and Visa). Accordingly, the Contractor and the Manufacturer's authorized Dealers must have the ability to accept universal card format Purchasing Cards, including American Express, MasterCard, and Visa, during the Contract term. Contractors and Manufacturer's authorized Dealers may receive payments from State Agencies and Eligible Users by universal card format Purchasing Cards in the same manner as other credit / debit card purchases. Universal card format Purchasing Cards (e.g., American Express, MasterCard, and Visa) acceptance is mandatory, but is not the exclusive method of payment (e.g., Purchase Order). The method of ordering and payment (e.g., Purchase Order, Purchasing Card) shall be selected by the State Agencies and Eligible User.

The State Agencies and Eligible User will not fill out any Contractor or Manufacturer's authorized Dealer forms or separate contracts in association with the Contractor or

Manufacturer's authorized Dealer accepting a Purchasing Card payment. Contractors and Manufacturer's authorized Dealers are not allowed to charge a fee for accepting a Purchasing Card payment. Surcharges or convenience fees are prohibited. On-line billing or payment systems maintained by the Contractor, Manufacturer's authorized Dealer, or their respective agent will not store the card holder's name, account number, and expiration date for re-use. Card holders will provide the Contractor or Manufacturer's authorized Dealer, as applicable, with card account information at each Purchasing Card transaction.

All individual purchases made using a Purchasing Card must be equal to or less than \$1000, and Contractors, Manufacturer's authorized Dealers, and State Agencies and Eligible Users may not intentionally segment or divide orders to avoid the stated dollar limitation.

## **5.12 Acknowledgement of Order**

For orders which the Contractor does not have the awarded Commodities in stock and cannot Deliver the Commodities to the ordering State Agencies and Eligible User within fourteen (14) calendar days, the Acknowledgement of Order form shall be fully completed and issued by the Contractor to notify the ordering State Agencies and Eligible User of the receipt of the Purchase Order for Commodities awarded under the Contract, the Manufacturer's order confirmation information, and the estimated delivery date.

The Contractor must mail, email, or fax the fully completed Acknowledgement of Order form to the ordering State Agencies and Eligible User's issuing office within fourteen (14) calendar days from the date the Contractor receives the Purchase Order under the Contract. Failure of the Contractor to provide the ordering State Agencies and Eligible User the Acknowledgement of Order form within fourteen (14) calendar days from the date the Contractor received the Purchase Order will be considered acceptance of the order by default, which, if necessary, shall require the provision of the next new model of the Commodity, which meets the prices, discounts, requirements, specifications, terms, and conditions herein.

Submission of the Acknowledgement of Order form is to be the responsibility of the Contractor without prompting or notification by the Contract Manager or State Agencies and Eligible User. **Repeated failures by the Contractor to submit completed Acknowledgement of Order forms to the ordering State Agencies and Eligible Users shall be cause for default proceedings and / or Contract termination.**

Upon Contract Formation, Section 2.17, the Department shall distribute, in electronic format, the Acknowledgement of Order form to be used by the Contractor.

## **5.13 Transportation and Delivery**

Delivery of the awarded Commodity is defined as receipt of the Commodity at the State Agencies and Eligible User's place of business or designated location. Delivery does not constitute Acceptance, per Section 5.14 of the Contract. The Contractor must give the ordering State Agencies and Eligible User a minimum of twenty-four (24) hours notice prior to delivery. Deliveries will be received as stipulated by the State Agencies and Eligible User.

## 5.14 Acceptance

The State Agencies and Eligible User, within three (3) business days of delivery, will thoroughly inspect the Commodity (ies) received for acceptability. The Contractor is obligated to correct any errors or damage in the Commodity (ies). Failure by the State Agencies and Eligible User to discover an error in the Commodity (ies) shall not relieve the Contractor from their obligation to correct the error in the event it is found anytime after the Commodity (ies) is delivered.

The Parties agree that inspection and Acceptance will be the State Agencies and Eligible User's responsibility and occur at the location of the State Agencies and Eligible User. The Contractor shall be responsible for filing, processing, and collecting all damage claims. The State Agencies and Eligible User shall assist the Contractor by:

- Recording any evidence of visible damage on all copies of the delivering carrier's bill of lading;
- Report any known visible and concealed damage to the Contractor;
- Confirm said reports in writing within twenty-one (21) business days of delivery, requesting that the carrier inspect the damaged merchandise; and
- Provide the Contractor with a copy of the carrier's bill of lading and damage inspection report.

Transportation and Delivery of the Commodity (ies), per Section 5.13 of the Contract, does not constitute Acceptance for the purpose of payment. Final Acceptance and authorization of payment shall be given by the State Agencies and Eligible User only after a thorough inspection indicates that the Commodity (ies) is undamaged and meets the Contract requirements, specifications, terms, and conditions. Should the delivered Commodity(ies) be damaged or differ in any respect from the Contract requirements, specifications, terms, and conditions, payment will be withheld until such time as the Contractor completes the required, State Agencies and Eligible User approved, corrective action(s).

Should the Commodity (ies) require service or adjustments as part of the State Agencies and Eligible User approved corrective action(s), the Contractor shall either remedy the defect(s) or be responsible for reimbursing the Manufacturer's local authorized service Vendor or others selected by the State Agencies and Eligible User to remedy the defect(s). The Contractor shall initiate such required service or adjustments within two (2) business days following notification by the State Agencies and Eligible User. The Commodity (ies) will not be accepted until all service and / or adjustments are satisfactory and the Commodity (ies) is re-delivered in acceptable condition. The costs of any Transportation and Delivery, Section 5.13, required as part of the initial or any re-deliveries due to error or damage are the responsibility of the Contractor.

The ordering State Agencies and Eligible User shall notify the Department of any Contract deviation that it cannot resolve with the Contractor. The Department and State Agencies and Eligible User will develop a corrective action plan related to the Contract deviation, which may include the State Agencies and Eligible User's permanent refusal to accept the Commodity (ies), in which case the Commodity (ies) shall remain the property of the Contractor, and the State Agencies and Eligible User and the State will not be liable for payment for any portion thereof.



## 5.15 Annual Contract Sales Summary

The Contractor is required to provide annual fiscal year Contract Sales Summaries to the Contract Manager within twenty-one (21) calendar days after the end of each fiscal year during the term of the Contract, including any renewals. The fiscal year is a twelve (12) month period beginning July 1 and ending on June 30 of each year. Contract Sales Summaries shall document all orders completed, for which payment was received, during the specified fiscal year. Contract Sales Summaries will have two (2) separate components:

1. The report's first component shall specifically document the quantity and total sales by Product Groups and Manufacturer / Brand Name sold; including Base Equipment; OEM Options, Accessories, & Implements; and OEM Parts; differentiating between Eligible User types, State Agencies and Other Eligible Users.
2. The report's second component shall specifically document all individual sales, including the sales date, State Agencies and Eligible User's organization name, a brief Commodity and / or contractual service description, quantity, and total sales amount.

The Contractor is also required to provide partial year Contract Sales Summaries under the same terms as the annual summaries for portions of the Contract term that occur outside a complete fiscal year. These partial summaries will be due July 15<sup>th</sup> for the period beginning on the Contract Formation date, per Section 2.17, and ending June 30<sup>th</sup>, and within twenty-one (21) calendar days after the termination of the Contract for the period beginning July 1<sup>st</sup> of the Contract's final year and ending on the Contract termination date. The Department may require additional ad hoc Contract Sales Summaries for various periods of time; the Contractor shall submit these specific ad hoc summaries within twenty-one (21) calendar days of notification by the Department.

**Initiation and submission of the Contract Sales Summaries are to be the responsibility of the Contractor without prompting or notification by the Contract Manager.** The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Manager as stipulated. The Department shall distribute, in electronic format, the Contract Sales Summary forms to be used by the Contractor upon Contract Formation, Section 2.17.

## 5.16 Quarterly Sales Summary Reports

The following data must be reported to the Department on a **quarterly contract basis**, all reports shall include the following:

- I. Contractor's Name
- II. Reporting Period
- III. Total dollar value of purchases per quarter separated by State Agency and Eligible User totals and separated by purchase order and p-card order total dollar values.
- IV. Total dollar value of purchases per quarter separated by product group.

- V. Excel report itemizing total purchases for period that includes columns for the following information: manufacturer's name, agency name, product number, item description, product group number, identify lease or purchase status, unit of measure, quantity, manufacturer list price, percentage discount taken and final purchase price.
- VI. Report will emphasize where the most significant purchase volumes are by product group.

**Failure to provide quarterly sales summary reports, including no sales, within twenty-one (21) calendar days following the end of each quarter (January, April, July and October) and/or contract year may result in the contract supplier being considered in default and may constitute termination of the contract by State Purchasing.**

**EXAMPLE:**

Vendor Name	XYZ Corporation	Fiscal Year 2010				2nd__ Quarter
Contract Number	Agency or Eligible User	Product Group	Payment Type	Lease or Purchase	Total Spend	
600-760-11-1	Department of Management Services	Mail Equipment	P-Card	Lease	\$\$	
			P-Card	Purchase	\$\$	
			PO/DO	Lease	\$\$	
			PO/DO	Purchase	\$\$	
		Mail Sorters	P-Card	Purchase	\$\$	
			P-Card	Lease	\$\$	
			PO/DO	Purchase	(If zero) - 0	
			PO/DO	Lease	\$\$	
		Supplies	P-Card	Purchase	\$\$	
			PO/DO	Purchase	\$\$	
	Department of Transportation	ETC.....				

**Template provided for Upload in the Sourcing Tool.**

- I. Contractor shall report to Department the total spend with certified and other minority business enterprises in association with this contract.
- II. Reports must include the period covered, the name, minority code and Federal Employer Identification Number of each minority Contractor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority Contractor on behalf of each purchasing agency ordering under the terms of this contract.

**Submission of the Quarterly Sales Summary Report is to be the responsibility of the Contractor without prompting or notification by the Contract Manager. The**

Contractor will submit the completed **Quarterly Sales Summary Report** forms by **email** to the Contract Manager declared in Section 3.1.

### **5.17 Transaction Fees and Reports**

The Contractor is required to submit monthly Transaction Fee Reports in electronic format. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and Vendor training presentations available online at the Transaction Fee Reporting and Vendor Training subsections under Vendors on the MyFloridaMarketPlace website (located at <http://dms.myflorida.com/mfmp>). Assistance is also available with the Transaction Fee Reporting System from the MyFloridaMarketPlace Customer Service Desk at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com) or 866-FLA-EPRO (866-352-3776) between the hours of 8:00 AM to 5:30 PM Eastern Time.

The 1% transaction fee shall not apply to the payments made to vendor **for the pass through costs of postage** that the contractor pays directly to the United States Postal Service. **All other payments made to vendor under this contract are subject to the 1% transaction fee.**

### **5.18 Business Review Meetings**

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

1. Review of Contractor performance
2. Review of minimum required reports
3. Review of continuous improvement plans

The Department encourages Contractors to identify opportunities to generate lower costs. A continuous improvement effort, consisting of various ideas to enhance business efficiencies, may be discussed at the Business Review meetings or as identified.

### **5.19 Customer Service Support**

Awarded contractor shall have a single point of contact for customer support. This individual may support multiple Customers and respond to Customer calls and/or emails within twenty-four (24) hours. Customer Support contact information shall be provided on the Ordering Instructions form. Contractor shall make all Customers of the contract aware of its existence at the time of order to ensure that contractual pricing is utilized.

Contractor shall provide toll-free customer service phone support from 7:00 AM (EST) to 6:00 PM (EST) Monday through Friday, except for National and State recognized holidays. TDD (Telecommunication Device for the Deaf) access must be made available during the above customer service operating hours.

Contractor shall provide an after-hours contact number for use by Customers for emergency orders after standard customer service operating hours.

### **5.20 Insurance Requirements**

Within ten (10) calendar days after date of award on certification of contract document, contractor shall provide the Department with a certificate of insurance. During the

contract term, the contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the contract, which, as a minimum, shall be: workers' compensation and employer's liability insurance per Florida statutory limits (currently \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate) covering all employees engaged in any contract work; commercial general liability coverage on an occurrence basis in the minimum amount of \$500,000 (defense cost shall be in excess of the limit of liability), naming the department as an additional insured; and automobile liability insurance covering all vehicles, owned or otherwise, used in the contract work, with minimum combined limits of \$500,000, including hired and non-owned liability, and \$5,000 medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of the contract. The contract shall not limit the types of insurance contractor may desire to obtain or be required to obtain by law. The limits of coverage under each policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract. All insurance policies shall be through insurers authorized to write policies in Florida.

#### **5.21 Renewal Pricing**

Upon renewal of the State Term Contract, the initial prices submitted as the Contractor's bid will be considered the pricing throughout the contract renewal period. However, if during the term of the contract the Contractor's pricing and products have been changed, added or removed from the contract per Section 6.22, then pricing at the end of the initial contract term shall be considered the renewal pricing.

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**SECTION 6.0  
TECHNICAL SPECIFICATIONS**

- 6.1 ELIGIBLE PRODUCTS**
- 6.2 PRODUCT AND PERFORMANCE STANDARDS**
- 6.3 SERVICE AND RESPONSE TIME**
- 6.4 PERFORMANCE FAILURE DAMAGES**
- 6.5 OPTIONAL RELATED ACCESSORIES**
- 6.6 PRICING**
- 6.7 ORDERS**
- 6.8 DELIVERY**
- 6.9 INSTALLATION**
- 6.10 WARRANTY**
- 6.11 DEALERS AND SERVICE FACILITIES**
- 6.12 REPLACEMENT PARTS**
- 6.13 TRAINING**
- 6.14 EQUIPMENT MANUAL**
- 6.15 PURCHASE AND LEASE PROVISIONS**
- 6.16 PURCHASED EQUIPMENT MAINTENANCE AGREEMENT**
- 6.17 REQUIRED CERTIFICATION**
- 6.18 BALANCE OF PRODUCT LINE**
- 6.19 EQUIPMENT SERIAL NUMBERS**
- 6.20 POSTAGE METERS**
- 6.21 STATE OF FLORIDA PURCHASING CARD PROGRAM**
- 6.22 ADDITION OF NEW ITEMS**

## 6.11 Eligible Products

Items offered under this Contract shall be classified under the Product Groups below. Respondent may provide percentage discount derived pricing on multiple pieces of equipment within each product group. Each Product Group must have a single, fixed discount off MSRP for all items in that Product Group. It is anticipated that more than one item will be bid per group to accommodate low, medium and high volume equipment therefore respondent shall distinguish in writing the differences between each system submitted. Product groups are as follows:

Product Group	Commodity Number	Item
1	600-660-030	Mail Machines
2	600-660-590	Mail Openers
3	600-620-480	Inserters
4	600-580-250	Folding Equipment
5	600-190-250	Burster, Paper/Form
6	252-030-xxx	Mail Related Software Systems
7	600-780-xxx	Sealing Machines
8	780-720-650	Electronic Scales
9	600-760-900	Postage Meter Rentals
10		<b>Supplies – Ink, etc... (For Cataloged ITEMS ONLY)</b>
11		Balance of Product Line: Percentage discount for other mail processing related equipment, accessories, supplies or services not requested in solicitation.

## 6.12 Product and Performance Standards

All products offered under this contract shall be new, unused, of current production (except for postage meter rentals), and of the latest design and construction. Used, rebuilt, remanufactured, shopworn, demonstrator, discontinued or prototype items shall not be offered. All products and services supplied shall comply with customary, reasonable, and prudent standards of professionalism and care in the industry. Note: It is understood that some new machines are manufactured from new parts which contain some recycled raw materials or components but all products are deemed “new” and are fully warranted against defect.

- i. Postage meters rented under this contract are required to be new but by Postal Regulation, the contractor is responsible for ensuring that they are in proper working order. All products offered under this contract shall conform with and be governed by all applicable postal regulations in effect at the time of this offering and be kept in compliance during the term of this contract or until completion of any lease entered into under this contract.

- ii. If USPS requirements and standards change during the term of a lease, the manufacture shall be required to modify the existing equipment or replace the existing equipment to meet the new USPS requirements within Ten (10) days of formal written request of the Department, Agency, or Eligible Users of the State Term Contract. The modifications or replacement of equipment shall be completed without additional costs to the Department, Agency, or Eligible Users current lease agreement.

### 6.13 Service and Response Time

Availability of in-state representatives to assist agencies and eligible users in proper application and to resolve technical problems is a requirement of this Contract. In addition, the ability of the respondent to meet service requirements outlined herein will be important in the award of this contract. **Awarded contractor shall respond to all service calls within four (4) business hours after notification during standard business hours. Standard business hours are defined as Monday through Friday, 8:00 a.m. – 5:00 p.m., excluding Saturdays, Sundays and national and state observed holidays.** For the purposes of the Contract resulting from this solicitation, response time shall mean the arrival of a trained service person at the customer's site. A telephone call, unless it results in solving the problem, shall not be deemed an acceptable service response.

- a. **An equivalent loaner piece of equipment with similar specifications must be provided at no additional charge if the equipment cannot be repaired within sixteen (16) business hours of request for service.**
- b. **Other terms and conditions for Downtime and Damages are stated under Section 6.4 and supersedes Section 6.10**

Awarded contractor is required to provide satisfactory service levels at all times. Degraded performance and/or excessive equipment down time shall not be acceptable. Excessive equipment down time is defined as three (3) or more service calls over a ninety (90) day period for repairs to the same piece of equipment. Should a piece of equipment (a) continue to malfunction after three service calls, (b) require excessive amount of remedial maintenance, or (c) in the opinion of the agency, equipment is still not providing satisfactory performance after three service calls, the contractor, after receiving notice in writing by the agency that such a situation exists, agrees to remove and/or replace the defective unit or entire system as per the original specifications (agency's choice).

### 6.14 Performance Failure Damages

**Downtime in excess of Two (2) work days may be considered default of contract.** In the event a manufacturer or designated dealer is non-responsive under the resulting contract, the Department reserves the right to terminate such manufacturer or designated dealer from Contract. If a dealer is terminated, the contract manufacturer shall designate an authorized replacement dealer within fifteen (15) days of written notification by State Purchasing. Such action shall in no way relieve the manufacturer from liability and the obligation to fulfill the terms and conditions of the contract.

Arrangements must be made within twenty-four (24) hours or one (1) Business Day for the manufacturer to continue service as required under the terms of the contract, until a new dealer is appointed. Failure to comply shall be considered a default of the contract.

**Failure to provide service to all specified areas within the contracted time will result in damages that cannot be easily measured, therefore, the following Performance Damages will apply:**

<b>Service</b>	<b>Service Time</b>	<b>First Failure</b>	<b>Second Failure</b>	<b>Third Failure</b>
Service Call – From Regional Service Location Only	4 Business Hour Response Time	\$100 Damages	\$250 Damages	\$500 Damages
Downtime Replacement	16 Business Hours	24 Business Hours - \$250 per day	36 Business Hours - \$500 per day	After 48 Business Hours - \$1000 per day

**After Three (3) repeated failures of any machine the vendors shall be required to:**

1. Replace the piece of equipment with the same or newer version of the equipment within **Sixteen Business Hours (16) of the fourth service call or failure of that equipment**, under the same terms and payment structure as previously agreed upon under the **original equipment lease of the failed equipment.**
2. Upon agency request remove the repeat failed equipment at no further cost to the State Agency or OEU, (Other Eligible Users).
3. Manufacturer may be terminated as a supplier to The State of Florida.

**6.15 Optional Related Accessories & Supplies**

Customers may purchase equipment alone, without optional related accessories, or may choose to purchase any individual or combination of machines, accessories, supplies or software offered under the terms of this Contract. Pricing for accessories, supplies and software shall be listed on the Price Sheet under each Product Group section.

If optional related accessories, supplies or software is purchased by the customer, each related cost shall be added separately to the invoice as an itemized charge. If a software license or related service agreement is required when a software solution is purchased, customers may procure that license or related service agreement in association with this contract. Price for software licenses or related service agreement shall be between the customer and the contractor. Customers are obligated to actively seek fair market value and to keep accurate records of the process.

**6.16 Pricing**

Unit pricing for each item shall be listed on the Price Sheet enclosed in this solicitation (Section 7.1). This solicitation is based on a single, fixed discount per Product Group off the manufacturer's suggested retail price (MSRP). All purchase and lease prices shall include FOB destination delivery, installation, warranty, on-site training and one set of equipment operation manuals.



Percentage discounts, lease prices or other derived factors used for equipment calculations must be the same for all types and models in the identified Product Group. For example, if a 45% discount is proposed for one particular type and model of equipment then that same percentage must apply to all types and models in that Product Group. These factors and percentage discount must be good for the life of the contract. The State must be able to understand how pricing was derived in order to calculate future pricing when a new piece of equipment is added to the contract. Pricing parameters such as unit price, lease price and percentage discount for equipment, accessories, supplies, maintenance and software off of a manufacturer's retail price list will permit the State to maintain a consistent priced contract.

Note: The price list submitted with response will be used by agencies and eligible users to order goods and services. All prices for the purchase and lease of equipment; accessories, supplies, maintenance, software and meter rentals must be listed on a per unit basis. All costs are binding. Contractors are encouraged to offer larger discounts to qualified ordering entities for large, one time, single orders.

### **6.17 Orders**

There shall be no minimum order amount required to place an order under this contract. Contractor is required to honor all contract related orders made using purchase order or credit card, that are placed prior to the date of expiration of the contract or if received by mail by the contractor within fifteen (15) calendar days following the date of expiration.

### **6.8 Delivery**

Unit prices shall include delivery to the ordering agency, F.O.B. destination freight prepaid. Product shall be delivered within thirty (30) days after receipt of order for standard "in-stock" equipment. Contractor shall notify the agency at least seventy-two (72) hours in advance of delivery of equipment so that necessary arrangements can be made. Contractor shall be responsible for any damages to building or individuals as a result of delivery and installation.

Unit prices shall include delivery to the ordering agency, F.O.B. destination freight prepaid. Any special order, stand-alone, large equipment, and specialty software products shall be delivered within ninety (90) days after receipt of order. All additional delays in delivery for these items the contractor shall be required, in writing, a revised delivery date to the ordering entity at no less than sixty (60) days from the required delivery date. Contractors shall notify the agency at least seventy-two (72) hours in advance of delivery of equipment so that necessary arrangements can be made. Contractor shall be responsible for any damages to building or individuals as a result of delivery and installation.

### **6.9 Installation**

The price proposed includes on-site, inside product delivery, uncrating, assembly, full installation, making ready for use, removal of debris and training of agency personnel. For equipment deliveries that require special rigging, cranes or lifts to place the equipment in the required area then inside delivery fees are allowed under certain conditions:

1. The vendor must provide a written quote to the ordering entity at the time of the order being placed.

2. Vendor must have a signed agreement for the additional charges to incorporate the additional inside delivery charges.
3. Other than referenced above, no other fees or charges will be paid by the agency.

#### **6.10 Warranty**

Contractor shall fully warrant all items furnished under this Contract against defects in materials and workmanship. Purchased equipment shall be warranted for a minimum of one (1) year from date of acceptance or manufacturer's standard warranty, whichever is longer. Leased equipment shall be warranted for life of lease. Warranty shall commence upon acceptance of equipment by the agency. Acceptance is defined as the date on which customer accepts installation of equipment as evidenced by the execution and delivery of a Lease Certificate of Acceptance Form to contractor.

All products must operate in accordance with the manufacturer's standard specifications and documentation. Should any defects in workmanship or materials, appear during the warranty period, the contractor shall repair or replace such items immediately upon receipt of notice from the agency. The warranty shall be on-site, parts and labor, next business day support and shall be included in the product price. The warranty shall cover material, labor and transportation charges, if any. Warranty for any software provided includes any upgrades thereto during the warranty period. Warranties submitted with your response, either appearing separately or included in preprinted literature and/or price lists, shall not be acceptable and provisions listed here take precedence. While a unit is under warranty, all rate changes and software updates will be included.

#### **6.11 Dealers and Service Facilities**

**A complete list of manufacturer's authorized dealers and service locations must be submitted with proposal.** Awarded contractor shall maintain service facilities and qualified personnel to service equipment located anywhere in the State of Florida. **List of all participating dealers and service facilities shall be submitted on the Ordering Instructions Form (Section 7.2) by area(s) covered.**

The State reserves the right to consider the availability of dealers and service facilities in the award of this solicitation. Each service facility must maintain for the life of the contract a sufficient number of qualified technicians and a normal supply of parts to provide all required service, and ensure minimal equipment downtime. Failure to comply with this requirement will result in termination of contract.

#### **6.12 Replacement Parts**

Contractor shall utilize only genuine factory authorized replacement parts for repair of equipment. Under no circumstances will the agency deliver or mail equipment to the contractor for repair. In responding to the proposal, the contractor certifies replacement parts will be available for **five (5) years after purchase/lease of equipment** and each of the designated dealers is aware of and agrees to conform to all terms and conditions of this solicitation and resulting contract. Repair parts must be stocked at all service locations.

#### **6.13 Training**

Unit pricing includes “on-site” instruction to using personnel, if requested for the purchase or lease of new equipment (except postage meters). Contractor will provide a minimum of two (2) hours on-site training for standard, table-top equipment to adequately instruct personnel in the use of new equipment. Contractor will provide a minimum of eight (8) hours on-site training for large, special order, stand alone equipment to adequately instruct personnel in the use of new equipment. Training will be performed after installation and prior to actual operation and acceptance.

At the agency’s or eligible user’s request, further training may be requested at no additional charge per the following table:

Lease Term	36 Month	48 Month	60 Month
Maximum hours if requested for additional training	12 Hours	18 Hours	24 Hours

**6.14 Equipment Manual**

Each machine purchased or leased shall come with one (1) user’s manual that contains operating and service instructions for that equipment, includes necessary warnings, safety precautions and proper preventative and remedial maintenance for the equipment.

**6.15 Purchase and Lease Provisions**

Each piece of equipment offered in response to this solicitation shall be available for purchase or lease. Customer will be authorized to enter into a contract for equipment by issuance of a purchase order referencing the contract number. The manufacturer's lease agreement form will not be used since a contract resulting from this negotiation and the purchase order will constitute the complete agreement. In the event some type of additional agreement is signed by an agency in error, it will be considered void and non-binding to agency. State Agencies (only) are required to receive approval from the Department of Financial Services prior to entering into a lease in excess of \$30,000 in total value, as allowed by Chapter 287.063, Florida Statutes. State agencies shall review the Comptrollers latest memorandum addressing leases and installment purchase of equipment when considering the leasing of equipment.

**a. Lease Provisions**

Lease prices shall remain firm throughout the lease period selected by the Lessee. The date of acceptance is that date listed on the Certificate of Acceptance Form after equipment has been installed, tested and agency trained. Lease agreements shall be effective on the date listed on the Certificate of Acceptance Form. The terms and conditions of this contract will remain in effect throughout the term of any lease entered into. The lease shall continue in force for the full term of the lease, even if the state contract, under which the lease was initiated, naturally ends or is terminated.

**Available Lease Periods:**

**i. 3-Year Lease:**

A consecutive thirty-six (36) month equipment plan (not a lease purchase plan) which shall expire at the end of the thirty-six (36) month period. No termination notice shall be required by either party at end of lease.

ii. **4-Year Lease:**

A consecutive forty-eight (48) month equipment plan (not a lease purchase plan) which shall expire at the end of the forty-eight (48) month period. No termination notice shall be required by either party at end of lease.

iii. **5-Year Lease:**

A consecutive sixty (60) month equipment plan (not a lease purchase plan) which shall expire at the end of the sixty (60) month period. No termination notice shall be required by either party at end of lease.

**Each lease agreement shall include a full service maintenance agreement for equipment for the life of the lease.** Cost for the maintenance agreement shall be included in the monthly lease price, but identified separately on the Price Worksheet for informational purposes only.

Lease prices are a critical component of this solicitation and must meet the financial guidelines outlines by Florida's Department of Financial Services i.e., 90% of the purchase cost. All lease prices submitted will be reviewed by the Department of Financial Services Lease Division to determine if the purchase is financially prudent. **Any lease found to be in excess of DFS's 90% rule will not be accepted.**

Each Respondent is asked to provide additional information for lease price evaluation including: maintenance cost per lease, residual value of equipment at end of each lease term, useful life of equipment and interest rate charged per lease. The State uses these figures when conducting a total cost of ownership analysis on equipment.

**b. Expiration of Lease**

Lease agreements shall expire upon completion of the specified lease period and shall not be automatically renewed for a new lease period. No termination notice shall be required by either party at end of lease. All equipment leased under each lease agreement shall be removed from the customer's location within ten (10) days after expiration of lease by the Contractor or the Contractor representative. All equipment removals shall be coordinated with Customer, and at no costs to the Customer.

**The Customer is in no way liable or required to mail**, freight or transport any equipment at the end of the lease. It shall be the **Contractor's responsibility** to physically remove any and all equipment from the **Customer's location**.

**c. Renewal of Lease**

**There shall be NO automatic renewal of any leased equipment at the end of a lease.** Renewal of a lease is not permitted under this contract for State Agencies; however, any other eligible users may re-negotiate a renewal of their lease pursuant to the Eligible Users' Terms, Rules and Procedures.

**d. State of Florida Consolidated Equipment Financing Program (CEFP)**

Financing is available to state agencies and state universities through the Department of Financial Services for most types of purchases of \$30,000 in value and higher. For further details, go to <http://fldfs.com/aadir/cefp/>.

**e. Purchase of Leased Equipment**

Purchase of leased equipment by state agencies does not require prior approval as a contract exception through State Purchasing.

**f. Lease Cancellation for Convenience**

The initial lease agreement may be canceled at any time during the lease period by the lessee (Customer). A thirty (30) day cancellation notice will be required of the lessee in writing. All money due the lessor (Contractor) for the remainder of the lease agreement period will be due and payable upon completion of the equipment removal, except in documented cases of non-performance by the Contractor. Upon cancellation of a lease agreement by the lessee without cause, the equipment will be returned to the lessor with transportation at the lessee's expense as well as removal charges, if applicable.

**g. Lease Cancellation Due To Non-Performance**

The initial lease agreement, in its entirety inclusive of all equipment components, may be cancelled during the lease period for non-performance related issues of one or more pieces of the system as defined in Section 6.4. If the lessee requests removal of leased equipment, lessor will cancel the lease effective immediately with no additional payments due from customer. Equipment will be removed from lessee site within ten (10) business days of such written notice at no cost to the customer.

**h. Lease Equipment Risk of Loss or Damage**

Upon acceptance of equipment, the ordering entity shall be responsible for ensuring all leased equipment from risk of loss or damage for life of lease. Per Section 6.10, Warranty, "acceptance", is defined as the date on which customer accepts equipment as evidenced by the execution and delivery of a Lease Certificate of Acceptance Form to contractor (i.e. the contractor has performed delivery, installation and training of equipment to ordering entity's satisfaction). Section 5.14 provides Departmental requirements for acceptance.

**i. Lease Payments**

Payment for equipment will be processed upon the satisfactory completion of delivery, installation, training and acceptance. Payment terms of each lease, may be monthly, quarterly, semi-annually or annually at the ordering entities option. Payments may be made using a purchase order or P-Card.

**j. Location and Moving of Leased Equipment**

Customer shall notify Contractor any time leased equipment is relocated to another physical street address. Relocation of leased equipment within the same building shall be performed by the Contractor at no charge. Within the same complex shall be done at no charge unless equipment must be trucked to

another building and then a standard industry charge is allowed and payable under this contract if a truck is necessary. Contractors are encouraged to submit price lists for moving, whether the charge is hourly rate or flat rate, with their submittal.

#### **k. Maintenance and Service of Leased Equipment**

Contractor certifies acceptance of the following guarantees on leased units:

- a. All broken or defective parts not caused by accident, neglect, misuse, or abuse and all necessary machine adjustments occasioned by such defective or broken parts will be covered by the Contractor during the term of the lease. The Contractor agrees to promptly repair or replace on a one for one basis without additional cost to the ordering entity.
- b. Contractor will be responsible for pick up and/or delivery of units that require service. If the required service cannot be completed within two (2) business days, the Contractor will provide an equivalent loaner piece of equipment to entity, at no additional charge.
- c. While a unit is under a lease agreement, all rate changes and software updates shall be included.
- d. All meter resets are all inclusive, not paid per occurrence for meter refills.

#### **l. Other Fees & Charges**

Contractor, dealers and leasing agents may not charge agencies any additional fees, including but not limited to, property taxes, delivery charges, pick-up charges, fuel surcharges, interest fees, or late payment fees (if paid within thirty (40) days of the invoice date), or removal charges.

#### **m. Department of Financial Services Lease Form**

Contractor will be required to complete and submit to agency a Checklist for Requesting Dept. of Financial Services Approval to Lease Equipment (DFS-A1-411), for any lease valued at \$30,000 or more.

[http://www.myfloridacfo.com/aadir/statewide\\_financial\\_reporting/2fineequipmentle asechecklist.doc](http://www.myfloridacfo.com/aadir/statewide_financial_reporting/2fineequipmentle asechecklist.doc)

### **6.16 Purchased Equipment Maintenance Agreement**

Respondent shall include a price for a twelve (12) month full service maintenance agreement for purchased equipment on the Price Sheet. Maintenance shall include preventive maintenance, all service calls, travel, loaner equipment and no charge replacement of all defective or worn parts and machines. If purchased, maintenance agreement will commence after warranty expires. Cost for maintenance agreement shall be shown separately on the Price Sheet. Maintenance Agreements for the purchase of equipment will be pro-rated after the manufacturer's warranty period expires. Future maintenance agreement prices for equipment purchased under this contract shall be based under the same specifications as in (Section 5.6) for pricing adjustments.

### **6.17 Required Certification**

Any products bid that have approved UL Certification or energy star certification and UL approved labeling or energy star labeling on each machine. Any product that has a postage scale included shall have both an approved UL Certification and be in compliance with standards established by the U.S. Department of Commerce National Institute of Standards and Technology for weighing and measuring devices. UL or energy star approval labeling must be on each scale.

**Any products that are considered under the Florida's Climate Friendly Preferred Products List program must be indicated on the Price Sheet Section 7.1 in the appropriate box.**

#### **6.18 Balance of Product Line**

Contractors are asked, but are not required, to bid an additional percentage discount for "balance of line" equipment, accessories and supplies the Contractor offers that is related to mail processing equipment, but is not identified in one of the identified Product Groups. Percentage discount will be entered on Section 7.1 – Price Sheet

State Purchasing reserves the right to request technical literature on any item which appears in the balance of line. State Purchasing reserves the right to accept or reject any individual item(s) offered as balance of line.

#### **6.19 Equipment Serial Numbers**

The serial number of the main base unit will be the primary serial number used to identify a mail equipment system.

#### **6.20 Postage Meters**

**Postage meters may be rented or leased under this contract.** All postage meters placed under this agreement are subject to return to the contractor if requested by the State. All postage meter plans must include, as a minimum, a thirty (30) day cancellation notice without penalty requirement. At the termination of the contract period, the contractor will remove all postage meters from the various agencies, at the contractor's expense, if the using agency desires to cancel the placement.

Under all postage meter rental and lease plans the contractor shall provide the following at no additional charge:

- a. The monthly charge for postage meters shall include meter and complete meter maintenance for the term of the rental.
- b. Perform all repair service.
- c. Supply all necessary parts and labor for repair service.
- d. Provide replacement unit within one (1) business day if meter cannot be repaired.
- e. Perform all maintenance for postage meter rentals.
- f. Return any and all unused postage to agency at end of service.
- g. Delivery and pick-up of equipment.

**Exception:** It will be the ordering entity's responsibility to purchase a meter maintenance agreement for "purchased meters" if so desired.

**Remote Telephone Postage Requirements:** Contractor shall provide postage meters that have the capability of being reset and/or refilled with postage electronically by telephone or through the internet.

All Contractors must accept ACH transfers that will give the customer the ability to utilize any bank they want.

Contractor shall provide a central location for agencies to contact by telephone for the purpose of having the postage meter replenished. The telephone call shall be toll-free from anywhere in the United States and the agency need only enter the account number and meter number. For security purposes, the contractor shall provide each participating agency with a unique resetting code for its meter and have the capability of changing this code with each transaction. For security purposes, the contractor shall provide each agency with a unique resetting code for its meter and have the capability of changing code with each transaction.

All systems shall conform with and be governed by all postal regulations in effect at the time of this offering and be kept in compliance during the term of this contract.

Contractor shall provide a detailed postage activity statement to each agency on a monthly basis. This statement shall provide sufficient information for the agency to account for and record its postal activities. Cost for all of the above services shall be included in the monthly meter price.

#### **6.21 State of Florida Purchasing Card Program**

The State of Florida has implemented the State of Florida Purchasing Card (P-Card) Program, using the Visa network. Accordingly, Respondents must presently have the ability to accept Visa transactions or must implement the ability before the start of the Contract term, if awarded. Contractors may receive payments from state agencies by the purchasing card in the same manner as other Visa purchases for equipment and supply purchases and payments of equipment leases. Visa acceptance is mandatory, but is not the exclusive method of payment. The method of payment shall be selected by the State Agencies and Eligible Users.

**Note: Currently the only item prohibited from purchase with a P-Card is postage.**

#### **6.22 Addition of New Items**

Item addition and deletion can be requested semi-annually on the 1<sup>st</sup> day of September and then the 1<sup>st</sup> day of March after the execution of the contract. New and or deleted items and pricing of those items will not be valid or available until approval from DMS and amendments to the contract are complete.

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## SECTION 7.0

### PRICE SHEET & ORDERING INSTRUCTIONS AND FORMS

#### CONTENTS:

#### 7.1 PRICE SHEET

(MICROSOFT EXCEL™ ATTACHMENT REQUIRING SEPARATE DOWNLOAD; SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE)**

#### 7.2 ORDERING INSTRUCTIONS

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE)**

#### 7.3 SOLICITATION PREPARATION CHECKLIST

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)

#### 7.4 Manufacturer's Bidders Authorization & Certification Form

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE)**

#### 7.5 3% MODIFICATION REQUIREMENTS

(PLEASE NOTE: THIS DOCUMENT IS PROVIDED FOR REFERENCE PURPOSES AND IS NOT REQUIRED TO BE SUBMITTED AS PART OF A SOLICITATION RESPONSE)

#### 7.6 PREFERRED PRICING REQUIREMENTS

(PLEASE NOTE: THIS DOCUMENT IS PROVIDED FOR REFERENCE PURPOSES AND IS NOT REQUIRED TO BE SUBMITTED AS PART OF A SOLICITATION RESPONSE.)

#### 7.7 PREFERRED PRICING AFFIDAVIT

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE)**

#### 7.8 CERTIFICATION OF DRUG-FREE WORKPLACE

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE)**

#### 7.9 AREA DEALER AND RETAILER INFORMATION

(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.) **(SHALL BE REQUIRED FOR BID ACCEPTANCE IF AREA DEALERS AND/OR RETAILER ARE UTILIZED BY THE MANUFACTURER)**

**[The remainder of this page is intentionally left blank (other than footer information).]**

## 7.2 ORDERING INSTRUCTIONS

**CONTRACTOR:** \_\_\_\_\_

**FEIN NUMBER:** \_\_\_\_\_

Please identify the person who will be responsible for administering the Contract on your behalf if award is made, and include an emergency contact phone number:

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

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

Street Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Alternate contact source for placing orders or maintaining customer support functions:**

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

Street Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Direct Orders**

Please provide the following information about where Customers should direct orders. Please include both a regular mailing address along with an e-mail address and company URL:

Street Address or P.O. Box: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Toll Free Number: \_\_\_\_\_

Ordering Fax Number: \_\_\_\_\_

Vendor URL: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Remit Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Customer Service Representative Name: \_\_\_\_\_

### 7.3 Solicitation Preparation Checklist

The Solicitation Preparation Checklist is a guide to assist the Respondent in verifying the completeness of their response. The Solicitation Preparation Checklist does not relieve the Respondent of the responsibility of ensuring that all requirements of the solicitation are met with submittal of their response. Check off each of the following as you comply:

- \_\_\_\_\_ The Respondent has fulfilled all Sales Summary, Usage Fee, and Transaction Fee reporting and payment requirements as specified in the requirements, terms, and conditions of all previous or existing agreements with State of Florida agencies.
- \_\_\_\_\_ Download, read, understand, and agree to the entire solicitation, including all attachments (ITB No. 06-991-160-T; Courier Services: Sections 1.0 through 7.8 of the solicitation, and the MyFloridaMarketPlace RFX Info tab contents).
- \_\_\_\_\_ Review and abide by the Timeline, Section 1.2 of the solicitation.
- \_\_\_\_\_ If necessary, review the MyFloridaMarketPlace Sourcing Tool Online Training Guide and / or receive assistance from the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).
- \_\_\_\_\_ Submit any Questions via the MyFloridaMarketPlace Q&A Board, no later than as specified in the Timeline, Section 1.2 of the solicitation.
- \_\_\_\_\_ View the Department's Answers to the submitted questions as posted in any Addendum or Amendment to the solicitation on the MyFloridaMarketPlace Sourcing Tool and / or Vendor Bid System.
- \_\_\_\_\_ Download the Price Sheet (Section 7.1), Ordering Instructions (Section 7.2), Manufacturer's Authorization & Certification Form (Section 7.4), Preferred Pricing Affidavit (Section 7.7), and Certification of Drug-Free Workplace (Section 7.8). Review carefully and enter required information and upload one per each authorized representative of said manufacturer to the MyFloridaMarketPlace Sourcing Tool as required,
- \_\_\_\_\_ Submit all questions within the MyFloridaMarketPlace Sourcing Tool by the Timeline, Section 1.2 of the solicitation.
- \_\_\_\_\_ Submit response using the MyFloridaMarketPlace Sourcing Tool.
- \_\_\_\_\_ Mail any required documents and forms specified in Section 3.9, Submittal of Response, of the solicitation documents to the attention of:

**Angela Caldwell, MBA**  
**Purchasing Analyst**  
**Division of State Purchasing**  
**Department of Management Services**  
**4050 Esplanade Way, Suite 360**  
**Tallahassee, FL 32399-0950**

## 7.4 Manufacturer's Bidders Authorization & Certification Form

The below Manufacturer certifies that the company listed below is an authorized representative of said manufacturer and may sell and service manufacturer's products offered to the State of Florida under the terms and conditions of any contract resulting from the solicitation referenced above. Said manufacturer **designates the distributor to respond to the solicitation** rather than respond itself and certifies that said designate distributor meets the Technical Specifications, possesses the financial capability, experience and personnel resources to provide products and services of the scope and breadth described in this ITB.

Manufacturer further agrees that in the case of distributor default and removal from State of Florida vendor list the Manufacturer shall resume all responsibility to perform under the terms and conditions of the Contract and or provide within thirty days of removal from vendor list a replacement designate distributor which meets all required criteria above.

This form must be executed only by the manufacturer. Distributors, dealers and/or representatives **ARE NOT authorized** to sign this certification form on behalf of the manufacturer. **Failure to submit this certification with your response shall result in your response being deemed non-responsive.**

<b>AUTHORIZED BIDDER:</b>	
AUTHORIZED COMPANY: _____	
CONTACT: _____	
ADDRESS: _____	
PHONE: _____	
<hr/>	
MANUFACTURER: _____	
CONTACT: _____	
ADDRESS: _____	
SIGNATURE: _____	
TITLE: _____ DATE: _____	

**Note: This form does not require original signature for submittal purposes.**

## 7.5 3% MODIFICATION REQUIREMENTS

During the 2010 Session, the Florida Legislature passed a bill with a provision that directs each state agency to review its contracts and attempt to reduce contract costs by 3 percent. The bill was approved by the Governor and is now Chapter No. 2010-151, Laws of Florida. The section of the Law is no. 47 and it reads:

*Each state agency, as defined in s. 216.011, Florida Statutes, shall review existing contract renewals and reprocurments with private providers and public-private providers in an effort to reduce contract payments by at least 3 percent. It is the statewide goal to achieve substantial savings; however, it is the intent of the Legislature that the level and quality of services not be affected. Each agency shall renegotiate and reprocure contracts consistent with this section. Any savings that accrue through renegotiating the renewal or reprocurement of an existing contract shall be placed in reserve by the Executive Office of the Governor.*

In order for the Department to attempt to reduce costs and comply with the legislative directive, we need your assistance. Please work with the Contract Manager to see if there is a way for us to meet this Legislative goal of a 3% reduction in contract costs. Your cooperation is greatly appreciated.

## 7.6 PREFERRED PRICING REQUIREMENTS

During the 2010 Session, the Florida Legislature passed a bill with a provision that directs each state agency to identify contracts with a preferred pricing provision. The bill directs agencies to require vendors with such provision in a contract to submit an affidavit attesting that the vendor is in compliance with the preferred pricing provision. The bill was approved by the Governor and can now be found in Chapter No. 2010-151, Laws of Florida. Section 48 of the Law reads as follows:

*(1) Each state agency, as defined in s. 216.011, Florida Statutes, shall review its contracts and, for any contract with a preferred-pricing clause, the agency shall ensure that the contractor complies with such clause.*

*(2) Each contract executed, renewed, extended, or modified on or after July 1, 2010, which includes a preferred-pricing clause, must require an affidavit from an authorized representative of the contractor attesting that the contract is in compliance with the preferred-pricing clause. Such affidavit must be submitted at least annually. A contractor's failure to comply with a preferred-pricing clause is grounds for terminating the contract at the state agency's sole discretion.*

*(3) As used in this section, the term "preferred-pricing clause" means a contractual provision under which the state is offered the most favorable price that the contractor offers to any client.*

The above referenced contract contains a preferred pricing provision. Therefore, the Department is required to obtain an affidavit from an authorized representative of your company attesting compliance with the pricing provision. Attached is a form affidavit ready for signature which will ensure that the Department is in compliance with the new law. Please have an authorized representative execute the affidavit, have it notarized, and return the completed version to the Department. Your cooperation is greatly appreciated.

**7.7 PREFERRED PRICING AFFIDAVIT**

**Regarding the Contract Between**

[ \_\_\_\_\_ ] (The "Contractor")

**and**

**The Florida Department of Management Services**

**Contract No.: 600-760-11-1 dated February 20, 2011 (the "Contract")**

Pursuant to section **4.4 (b) of the Contract**, the undersigned Contractor hereby attests that the Contractor is in compliance with the preferred-pricing clause contained in the Contract.

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

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

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

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

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

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

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

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

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

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

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

## 7.8 CERTIFICATION OF DRUG-FREE WORKPLACE

Section 287.087 of the Florida Statutes provides that, where identical tie offers are received, one preference shall be given to an offer received from a Respondent that certifies it has implemented a drug-free workforce program. Please sign below and return this form to certify that your business has a drug-free workplace program.

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under the solicitation a copy of the statement specified in Subsection (1).
- 4) In the statement specified in Subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under the solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements. False statements are punishable at law.

RESPONDENT'S NAME: \_\_\_\_\_

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

Authorized Signature Print Name and Title \_\_\_\_\_



## 7.9 Area Dealer and Retailer Information

Alachua		Lee	
Baker		Leon	
Bay		Levy	
Bradford		Liberty	
Brevard		Madison	
Broward		Manatee	
Calhoun		Marion	
Charlotte		Martin	
Citrus		Miami-Dade	
Clay		Monroe	
Collier		Nassau	
Columbia		Okaloosa	
DeSoto		Okeechobee	
Dixie		Orange	
Duval		Osceola	
Escambia		Palm Beach	
Flagler		Pasco	
Franklin		Pinellas	
Gadsden		Polk	
Gilchrist		Putnam	
Glades		Santa Rosa	
Gulf		Sarasota	
Hamilton		Seminole	
Hardee		St Johns	
Hendry		St. Lucie	
Hernando		Sumter	
Highlands		Suwannee	
Hillsborough		Taylor	
Holmes		Union	
Indian River		Volusia	
Jackson		Wakulla	
Jefferson		Walton	
Lafayette		Washington	
Lake			