

**REQUEST FOR OFFERS
FOR
INDEPENDENT VERIFICATION OF THE
PSYCHOMETRIC VALIDITY FOR THE FLORIDA
STANDARDS ASSESSMENT**

**Request for Offers
Independent Verification of the Psychometric Validity
of the Florida Standards Assessment**

Purpose and Scope

I. INTRODUCTION

House Bill 7069, signed by Governor Rick Scott on April 14, 2015, created a panel to select an independent entity to conduct a verification of the psychometric validity of the statewide, standardized assessments, known as the Florida Standards Assessment (“FSA”). The FSA is an assessment of English Language Arts (ELA) and Mathematics aligned to the Florida Standards. The FSA is currently in its first year of administration. The FSA has been developed and administered by American Institutes for Research (“AIR”).

The panel consists of three members, one of which is appointed separately by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The panel is issuing this Request for Offers in order to make the selection of the entity to conduct the independent verification study. Pursuant to House Bill 7069, the panel will select the independent entity no later than June 1, 2015. The entity selected will execute a contract with the Department of Education and complete the independent verification of the FSA by September 1, 2015.

II. QUALIFICATIONS

In selecting the independent entity, HB 7069 directs that the panel must consider, at a minimum, the following:

- The national reputation and length of establishment of the entity;
- The experience and expertise of the independent entity in validating such data; and
- The use of professional standards, codes, and guidelines that address applicable practices in the profession, such as the Standards for Educational and Psychological Testing.

III. SCOPE OF WORK

The selected entity must perform the following activities:

The contractor shall conduct a review and analysis of the development, production, administration, scoring and reporting of results of the grades 3-10 English Language Arts, grades

3-8 Mathematics, and Algebra 1, Algebra 2, and Geometry end-of-course assessments administered in 2014-15 by AIR. When the required services are performed, the contractor shall also use the Standards for Educational and Psychological Testing (AERA, APA, and NCME, 2014) as a guideline to evaluate the appropriateness of assessment operations.

- a. Project Plan: Within fifteen (15) days of the Contract award, the Contractor shall provide a project plan and project schedule that shows the work tasks necessary to complete all required deliverables within the term of the Contract. The plan shall be detailed enough that the Department can use the plan to monitor work by the Contractor and shall include milestones and corresponding implementation tasks associated with each milestone. As a minimum, each required deliverable shall be a milestone within the project plan.
- b. Evaluations:
 - i. Evaluation of Test Items: The Contractor shall conduct evaluations of the development of test materials that will include analyses of the specifications for these processes and fidelity of the development process. The Contractor shall deliver findings and recommendations as to whether the test items were:
 - 1) error free,
 - 2) written to support research-based instructional methodology,
 - 3) unbiased,
 - 4) use student- and grade-appropriate language, as well as content standards-based vocabulary;
 - 5) assess the applicable content standard.

The Contractor shall anticipate the need to make visits and/or host conference calls with AIR and/or Department staff as part of this review. This review will result in a report to the Department that must conclusively state whether or not the processes in place result in the development of test items which meet industry standards for being high quality and include any recommendations for changes to the State's processes (if needed).

As part of this work, the Contractor shall plan to review a representative sample of items from each assessment. The review shall include a sample of at least 200 items.

- ii. Evaluation of Field Testing: The Contractor shall conduct an evaluation of the field test process, including the rationale, procedure and representativeness of sampling. The analysis shall address whether the sample size was sufficient and if the item-level data obtained as a result are adequate to support test construction, scoring, and reporting for the purposes intended for these assessments. This review will result in a report to the Department that includes findings and recommendations with respect to the validity of field test results.

- iii. Evaluation of Test Blueprint and Construction: The Contractor shall conduct an evaluation of the test blueprint. This review will result in a report to the Department that shall include analyses and recommendations as to the test blueprint needed to provide valid and reliable results for the intended purposes of the assessments.
- iv. Evaluation of Test Administration: The Contractor shall conduct an evaluation of the test administration procedures necessary to deliver the assessments properly and with fidelity. The analysis shall include a review of test administration procedures, instructions provided to those administering the assessments, instructions provided for students, ease of navigation of the test delivery engine, accommodations, and test security. The analysis shall include a review to determine to what extent, if any, test administration issues impacted overall student performance, and the impact on individual students of any delays between the time these students started and completed their test sessions. The Contractor shall coordinate with the Department to obtain access to the test delivery system for this evaluation. The review will result in a report to the Department that includes analyses and recommendations regarding test administration procedures. This evaluation shall include any recommendations for changes to the test administration processes should these errors occur again.
- v. Evaluation of Scaling, Equating, and Scoring: The Contractor shall conduct an evaluation of the scaling, equating, and scoring processes. The evaluation shall include an analysis of the rationales used, measurement model, scale scores, equating, scoring model, and quality control. The evaluation shall address reliability and validity, including: reliability estimates; standard error of measurement; classification accuracy and consistency; reliability for subgroups; criterion validity; content validity; construct validity; and consequential validity. This evaluation will result in a report to the Department that must conclusively state whether or not the processes in place result in obtaining appropriate, valid and reliable scores, and include any recommendations for changes to the processes.
- vi. Specific Evaluation of Psychometric Validity: The Contractor shall conduct an evaluation of a sample of items from each grade and subject to determine the following: do the items align to the Florida standards as described in the course description; is the difficulty level of the item appropriate; are the item discrimination statistics acceptable; do the item characteristics support that the items were written in such a way as to reduce the likelihood that a student could get the item correct by guessing; and are the items free from bias. The analysis shall include an evaluation of the process used for linking 2015 FSA Algebra 1 and Grade 10 ELA scores to the 2013-2014 results. This evaluation will result in a report to the Department that must conclusively state whether or not the assessments are valid and reliable for assessing student performance.

- c. Project Reporting: The Contractor shall conduct project reporting during the Contract term and after approval of the project plan, the Contractor will provide monthly status reports which document the activities of the Contractor, reference supporting documents, summarize weekly conference calls and other communications, and summarize the status of work relative to the project plan. The Contractor will also provide a Final Report due by the end of the Contract which includes each of the evaluations listed above, to include any commendations, recommendations, and validations associated with the project.

Deliverables Table

Deliverables	Due Date
1. Project Plan	6/19/15
2. Preliminary Evaluations	
a. Test Development	7/31/15
b. Field Testing	7/31/15
c. Test Blueprint & Construction	7/31/15
d. Test Administration	7/31/15
e. Scaling, Equating & Scoring	7/31/15
f. Specific Evaluation of Psychometric Validity	7/31/15
3. Final Evaluation	8/28/15
4. Project Reporting	6/30/15;7/31/15;9/1/2015

IV. RESPONSE FORMAT

Potential vendors are asked to address all of the following in their response:

- 1) Company literature, such as corporate overview and company structure, financial soundness and stability, test validity services, and any other relevant services, currently offered, and any other materials which would assist the Panel in determining that the entity meets the qualifications listed in this document.

- 2) A detailed description of the technical plan that explains the approach, capabilities, and means to be used in accomplishing the tasks in the Scope of Work, and where significant development difficulties may be anticipated and resolved. Any specific techniques to be used should also be addressed.
- 3) A management plan that describes the organizational structure and management style established and the methodology to be used to control costs, perform necessary activities, and to maintain schedules.
- 4) The cost of completing the Scope of Work, submitted on the Price Sheet included as Attachment 1. This price should be all-inclusive, and consider any necessary travel, third-party expenses, or other charges.
- 5) Point-of-contact information, including representative name, address, telephone number, and e-mail address.
- 6) All responses and associated forms should be signed and dated by a duly authorized representative of the entity. The response should be written in a concise manner, which is conducive to effective review. All responses and related documents submitted shall become the property of the State of Florida.
- 7) If the panel determines that it wishes vendors to provide oral presentations, arrangements will be made with the vendors to either appear in person before the panel or to make a presentation by conference call. Vendors may be requested to provide additional materials or address specific issues at the oral presentation, or at any other time before a selection is made.
- 8) MAIL OR DELIVER RESPONSES TO: (Do Not Fax or E-Mail)

Attn: Ashley Spicola
1602 The Capitol
Tallahassee, Florida 32399-0400
Email: Ashley.Spicola@laspbs.state.fl.us

V. Other Instructions

- 1) No negotiations, decisions, or actions will be initiated or executed by a vendor as a result of any oral discussions with a State employee. Only those communications which are in writing on behalf of the Panel, will be considered as a duly authorized expression until the Contract is awarded.

Unless specifically requested by the Panel, any amendments, revisions, or alterations to responses will not be accepted after the closing for the receipt of responses.

- 2) Vendors shall not communicate with any State staff concerning this Request for Offers except for the contact person identified in Section IV, paragraph 8. Vendors, or persons acting on their behalf, may not contact, between the release of this document and the selection of the entity by the panel, any employee or officer of the executive or legislative branch concerning any aspect of this Request for Offers, except in writing to the designated representative in Section IV, paragraph 8. Violation of this provision may be grounds for rejecting a response.
- 3) The State takes its public records responsibilities as provided under Chapter 119, F.S., and Article I, Section 24 of the Florida Constitution, very seriously. If a vendor considers any portion of the documents, data or records submitted in its response to be confidential, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, F.S., the Florida Constitution or other authority, the response must clearly mark and identify those portions which are confidential, trade secret or otherwise exempt. Each vendor must also simultaneously provide a separate redacted copy of its response. This redacted copy shall contain the name of the vendor on the cover, and shall be clearly titled "Redacted Copy." The Redacted Copy shall be provided at the same time the response is submitted and must only exclude or redact those exact portions which are claimed confidential, proprietary, or trade secret. **The vendor should also provide two (2) electronic copies (compact disc (CD), flash drive, etc.) of their redacted copy.**

Each vendor shall be responsible for defending its determination that the redacted portions of its response are confidential, trade secret, or otherwise not subject to disclosure. Further, each vendor shall protect, defend, and indemnify the panel and the State of Florida for any and all claims arising from or relating to that vendor's determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

If a vendor fails to submit a redacted copy with its response, the Panel is authorized to produce the entire documents, data or records submitted in answer to a public records request for these records.

All responses shall become the property of the State of Florida and shall not be returned to the vendor.

- 4) The Disclosure Statement Form (Attachment 2) should be signed and submitted with the response.
- 5) This contract or any portion thereof shall not be subcontracted, without the prior approval of the Panel. Vendors should clearly state in their response whether or not it intends to use subcontractors and describe the work to be performed by them and provide their qualifications. No subcontractor shall, under any circumstances, relieve the vendor of its liability and obligation under the resulting contract; and despite any such subcontracting the State shall deal through the vendor, which shall retain the legal responsibility for performing all obligations under the contract.

VI. Notice of Intent

Interested vendors are requested to submit a notice of its intent to submit a response as soon as possible in order to be provided with any changes to the schedule of events or other changes to this Request for Offers. However, submission of a Notice of Intent is not required to submit a timely response. The Notice of Intent should include the name, address, phone number and email address of the vendor's contact person for this Request. The Notice should be sent to the person identified in Section IV, paragraph 8.

VII. General Contract Conditions

The standard terms and conditions of the Department of Education that will apply to the Contract resulting from this selection process are included as Attachment 3.

SCHEDULE OF EVENTS

A. Schedule of Events

The following timetable shows the approximate dates for this Request for Offers. All times indicated are Eastern Time (ET). Vendors that submit responses, or Notices of Intent to respond, will be provided any revisions to this schedule.

Request for Offer Issued	Friday, May 15, 2015
Questions Due no later than Tuesday, May 19, 2015 by 5 p.m.	
Answers to Questions on or before Wednesday, May 20, 2015.	
Deadline for Qualified Entities to Submit Offers	Tuesday, May 26th, 2015 by 5 p.m.
Panel Meets to Select Top 10 Candidates, if needed, via Phone Conference Call.	Wednesday, May 27th, 2015
Panel Hears Presentations, In Person, From Qualified Entities That Submitted Offers. Presentations will be limited to 15 minutes each, including a question and answer period.	Friday, May 29th, 2015 at 10 a.m. in Jacksonville, Florida

Panel Selects Entity to Perform Validation Study	Friday, May 29th, 2015
Execution of DOE Contract With Selected Entity	TBD (As Soon As Possible After Selection)
Validation Study Complete	Tuesday, September 1, 2015

B. Questions and Restrictions

The Panel may be contacted via email or fax regarding submission of questions concerning this Request for Offers. Any questions must be submitted in writing and received by the specified due date at the following email address or fax:

Please deliver questions to:

**Attn: Ashley Spicola
1602 The Capitol
Tallahassee, FL 32399
Ashley.Spicola@laspbs.state.fl.us
Fax Number: 850-488-9005
Telephone Number: 850-717-9507**

The Panel will provide written answers to all questions vendors submit by the specified due date.

ATTACHMENT 1

RESPONDENT'S PRICE REPLY

****PLACEHOLDER FOR EXCEL PRICE SHEET****

ATTACHMENT 2

DISCLOSURE STATEMENT

PARTNERSHIP OR INDIVIDUAL

I hereby certify that I, if an individual, or each of us, if a partnership, doing business as _____ (Name of Individual or Partnership)

(am)(is) not now involved in nor have I ever engaged in any private business venture or enterprise, directly or indirectly, with the Commissioner of Education, the Deputy Commissioner of Education, any Associate Commissioner of Education, Division Director, or Bureau Chief within the Florida Department of Education.

I further certify that neither I, nor any partner, if a partnership, nor anyone acting in my or our behalf has requested that any of the above designated persons or any other employee of the Department of Education exert any influence to secure the appointment of _____ under this proposed agreement.

(Name of Individual or Partnership)

(1) _____

Signatur

e

Signature

(1) If partnership, each partner must sign and execute.

Signature

COMPANY OR CORPORATION

I hereby certify that neither I nor any owner, officer, director, or shareholder of _____ (Name of Corporation/Company)

_____ (1) corporation, licensed to do business in Florida, is presently involved in or has been

(Name of State of Inc.)

engaged in any private business venture or enterprise, directly, or indirectly, with the Commissioner of Education, the Deputy Commissioner of Education, any Associate Commissioner of Education, Division Director, or Bureau Chief within the Florida Department of Education.

I further certify that neither I nor any owner, officer, director, or shareholder of this corporation or anyone acting on behalf of this corporation or any of its owners, officers, directors, or shareholders has requested that any of the above designated persons or any other employee of the Department of Education exert any influence to secure the appointment of

_____ under this proposed agreement.

(Company)

(Corporation)

(2)

Signature

Title

(1) If company is not incorporated, insert "not incorporated" in this space.

(2) If incorporated, this statement is to be executed by same person who will execute contract, if awarded.

ATTACHMENT 3

STATE OF FLORIDA DEPARTMENT OF EDUCATION CONTRACT STANDARD TERMS AND CONDITIONS

- I. Pursuant to S. 287.058(1), Florida Statutes ("F.S.):
 - A. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
 - B. Travel expenses will be reimbursed only if expressly authorized by the terms of the Contract. Bills for any travel expenses shall be submitted in accordance with s. 112.061, F.S.
 - C. The Department may unilaterally cancel this Contract if the Contractor refuses to allow access by members of the public to all documents, papers, letters and materials made or received in conjunction with the Contract that are subject to Chapter 119, F.S., and are not exempt from public inspection by s 119.071, F.S., or by other provisions of general or special law.
 - D. The Deliverables specified in the Contract must be received and accepted in writing by the Department's Contract Manager before Contractor is entitled to payment.
 - E. To complete this Contract, all services must be performed and/or goods received on or before the date(s) specified in the Contract.
 - F. If this Contract is expressly renewable, it may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer. The renewal price for the contracted service is set forth in the bid, proposal, reply. Cost for renewal shall not be changed. Renewals shall be contingent on satisfactory performance evaluations by the Department and subject to the availability of funds. Exceptional purchase contracts pursuant to s. 287.057(3)(a) and (c), F.S., may not be renewed.
- II. The Contractor shall prepare an invoice for the amount due and mail it to the Department of Education Comptroller after having delivered the products and services required under this Contract to the Contract Manager. The invoice shall set forth details sufficient for a proper pre-audit and post-audit including, where applicable, the products and services delivered and completion dates. Upon receipt of the invoice, the Department of Education Comptroller will request confirmation from the Contract Manager that the delivered products and services are satisfactory and payment is due. If for any reason they are not satisfactory, payment will be withheld until the unsatisfactory condition or conditions are corrected. Upon receipt of the Contract Manager's approval, the Department of Education Comptroller shall process each invoice in accordance with the provisions of s. 215.422, F.S.
 - A. Contractor agrees to submit invoice within thirty (30) days of the Department's acceptance of deliverables. It is understood that should Contractor fail to submit invoice within thirty (30) days following the Department's acceptance of the deliverables, the Department shall not be responsible for payment thereof under this contract or quantum meruit.
- III. Section 215.422, F.S., provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the Contract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to s. 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Department's Fiscal s. at 850/245-0401 or Purchasing Office at 850/245-0735. Payments to health care providers for hospitals, medical, or other health care services, shall be made not more than thirty-five (35) days from the date of eligibility for payment is determined, and the daily interest rate is .02740 percent. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State Agency, may be contacted at 866/352-3776 or by calling the Chief Financial Officer's Hotline, 800/342-2762.

- IV. As used in this Contract, the term "Deliverable" refers to tangible "commodities", as defined in s. 287.012(5), F.S., which the Contractor provides pursuant to the Contract and to reports or other tangible or documentary evidence which demonstrate that the Contractor has performed the services required by the Contract. The following provisions govern Deliverables, as applicable:
- A. Each Deliverable must be physically delivered to the Department's Contract Manager, or to a person designated by the Contract Manager. If delivery is made to a designee, the Contractor shall give written notice to the Contract Manager of the delivery. A Deliverable is not received until the Contract Manager has physical control of deliveries or has written notice that the designee has physical control.
 - B. In each case in which the approval of a Deliverable is dependent upon tests being conducted by the Department or Contractor, independently or jointly, the Department's inspection and approval of the Deliverable shall not be subject to the five (5) day provision in s. 215.422, F.S., but shall be governed by the terms and conditions of the acceptance testing plan as stated in Attachment A, until approved in accordance with the plan.
 - C. In each case of a Deliverable of information technology, as defined at s. 287.012(14), F.S., unless specified otherwise in Attachment A, the acceptance testing plan is deemed to include as a minimum the reliable performance of the information technology in accordance with its design specifications in:
 - 1. a test environment that simulates the production environment as much as is reasonably possible; and
 - 2. the production environment for which it is intended for a period of time sufficient for the information technology to have experienced the major foreseeable exigencies of the production functions.
 - D. The Department's inspection, including testing when applicable, shall determine whether or not the Deliverables appear to be in compliance with the Contract. The Contractor shall be notified in writing of any apparent deficiency. The written notice shall detail the specific action required by the Contractor to correct the deficiency. The Contractor shall timely correct such deficiency and resubmit the deliverable for acceptance.
- V. The Contractor represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best of knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of s. 68.082, F.S., pertaining to false claims against the State, and/or s. 837.06, F.S., pertaining to false official statements.
- VI. This paragraph applies if this Contract expires in a fiscal year subsequent to the fiscal year in which the Contract is entered. The State of Florida's fiscal year comprises July 1 through June 30. The Department's and State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. If the Legislature fails to make the necessary appropriation, the Department will determine if there are other unencumbered funds which are available and which can be lawfully expended to pay for the Department's obligations hereunder. If the Department determines that there are no such funds, the Department shall promptly notify the Contractor. The giving of notice shall be deemed to have cancelled this Contract by mutual consent, with the date of notice being the date of cancellation.
- VII. Notwithstanding anything to the contrary contained in a State Term Contract, Contractor warrants that all commodities, as defined in s. 287.012, F.S., shall meet the specifications of the Contract and shall be merchantable and fit for the particular purposes intended by the Contract.
- VIII. The Contractor further warrants that as to each Deliverable produced pursuant to this Contract, Contractor's production of the Deliverable, and the Department's use of the Deliverable, will not infringe on the copyrights of any third party. This provision applies to each work of authorship in which copyrights subsist pursuant to 17 U.S.C. Sections 102-105 and to each exclusive right established in 17 U.S.C. Section 106. In furtherance of this provision the Contractor additionally warrants that:
- A. As to each work of software or other "information technology", as defined in s. 287.012(15), F.S., in which copyrights subsist, the Contractor has acquired the rights by conveyance or license to any third party software or other information technology, which was used to produce the Deliverable;
 - B. As to each image and sound recording incorporated into a Deliverable, the Contractor has acquired the necessary rights, releases, and waivers from the person whose image or sound is included, or from the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual work or sound recording from which the included image or sound recording was taken.

- IX. The Contractor further warrants that the Contractor shall not disclose to any third party, without the express, prior, written approval of the Department, any personally identifiable information about any student. This applies to information which came from any record or report of a Florida public education institution or from any education record which is subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g. The terms "record a report" and "student" shall have the meanings prescribed in s. 1002.22(2)(c) and (d), F.S. The term "educational record" shall have the meaning prescribed in 20 U.S.C. Section 1232g(a)(4).
- X. In the event that the Governor and Cabinet are required to impose a mandatory reserve on appropriations, the Department shall amend this Contract to place in reserve the amount determined by the Department of Education to be necessary because of the mandatory reserve. Such amendments may provide for adjustments in the Deliverable products and services as may be necessary.
- XI. Intellectual property is subject to following additional provisions:
- A. Anything by whatsoever designation it may be known, that is produced by, or developed in connection with, this Contract shall become the exclusive property of the of the State of Florida and may be copyrighted, patented, or otherwise restricted as provided by Florida or federal law. Neither the Contractor nor any individual employed under this Contract shall have any proprietary interest in the product.
 - B. With respect to each Deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the Department pursuant to s. 1006.39, F.S., on behalf the State of Florida.
 - C. In the event it is determined as a matter of law that any such work is not a "work for hire", Contractor shall immediately assign to the Department all copyrights subsisting therein for the consideration set forth in the Contract and with no additional compensation.
 - D. The foregoing shall not apply to any preexisting software, or other work of authorship used by Contractor, to create a Deliverable but which exists as a work independently of the Deliverable, unless the preexisting software or work was developed by Contractor pursuant to a previous Contract with the Department or a purchase by the Department under a State Term Contract.
 - E. The Department shall have full and complete ownership of all software developed pursuant to the Contract including without limitation:
 - 1. The written source code;
 - 2. The source code files;
 - 3. The executable code;
 - 4. The executable code files;
 - 5. The data dictionary;
 - 6. The data flow diagram;
 - 7. The work flow diagram;
 - 8. The entity relationship diagram; and
 - 9. All other documentation needed to enable the Department to support, recreate, revise, repair, or otherwise make use of the software.
- XII. The Department reserves the right, at its option, to issue a change order to delete work tasks reducing the total Contract amount by up to 10%. An addition of work tasks within the scope of the Contract, an increase in the total Contract amount, or a decrease of more than 10% of the total Contract amount, shall be implemented only by a Contract amendment signed by both the Department and the Contractor.

- XIII. Pursuant to s. 216.347, F.S., no funds awarded under this Contract may be used for the purpose of lobbying the Legislature, the judicial branch, or a State agency.
- XIV. The Contractor shall grant access to all records pertaining to the Contract to the Department's Inspector General, General Counsel and other agency representatives, the State Auditor General, the Office of Program Policy and Government Accountability, and the Chief Financial Officer.
- XV. The Contractor agrees to permit onsite visits by designated Department employees or agents to conduct audits to ensure compliance with Section 20.055, Florida Statutes. These audits may require Department access to records and data, computers and communications devices, and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc) that may be produced, transmitted or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.
- XVI. The Contractor must carry general liability insurance, which shall include errors and omissions coverage. The amount of coverage shall be a minimum of \$1,000,000 or the aggregate total of all contractual agreements between the Contractor and the agencies and political subdivisions of the State of Florida, whichever is greater. The Contractor shall add the Department as an additional insured on the general liability coverage. The insurance shall cover all of the Contractor's operations under this Contract and shall be effective throughout the Term of this Contract, as well as any renewals or extensions thereto. It is not the intent of this Contract to limit the types of insurance otherwise required by this Contract or that the Contractor may desire to obtain or be required to obtain by law. The Contractor must submit a Certificate of Insurance indicating coverage for general liability purposes and additional insured coverage, and shall maintain and pay for same throughout the Term of this Contract. A Certificate of Insurance indicating adequate coverage shall be submitted to the Department prior to the time the Contract is entered. Any and all insurance policies shall be through insurers qualified to do business in Florida.
- XVII. The Contractor agrees to provide the Department upon execution of this Contract with a performance bond or other security deposited with the Department in the total amount of the Contract or another amount if specified in the procurement specifications or Attachment A, guaranteeing that the Contractor will perform all work according to this Contract, within the time and price specified in the Contract. A performance bond shall be issued from a surety company, qualified to do business in Florida.
- XVIII. The Contractor may not assign or subcontract all or any portion of this Contract without the advance written consent of the Department.
- XIX. In all cases in which the Contractor, with the advance written consent of the Department, assigns or subcontracts, all or any portion of the Contract:
- A. The Contractor shall monitor the subcontractor or assignee and establish controls to avoid or mitigate risks identified by the Department or the Contractor; and
 - B. The Contractor shall allow the Department to monitor subcontractor or assignee activity and compliance, and the Contractor shall require the subcontractor or assignee to promptly submit to the Department, at the Department's request, complete and accurate documentation pertaining to the subcontract or the Contract.
- XX. The Contractor shall coordinate with and assist the Department's Contract Manager in the performance of the latter's responsibilities, which include without limitation:
- A. Monitoring the activities of the Contractor;
 - B. Receiving and reviewing the reports of the Contractor to determine whether the objectives of the Contract are being accomplished;
 - C. Receiving and reviewing the invoices for payment of funds to assure that the requirements of the Contract have been met and that payment is appropriate;
 - D. Evaluating the process used by the Contractor to monitor the activities of any subcontractor or assignee; and
 - E. Accessing, directly, the subcontractors and assignees, as the Contract Manager deems necessary.
- XXI. This Contract may not be modified unless in writing signed by the Department and the Contractor.

- XXII. The Department and the Contractor waive application of the principle of contract construction that ambiguities are to be construed against a contract's drafter, and agree that this Contract is their joint product.
- XXIII. The Department and the Contractor acknowledge that they have had their respective attorneys review and approve this Contract or that they have had the opportunity to do so.
- XXIV. This Contract shall be governed by the laws of the State of Florida, and venue for purposes of any action brought to enforce or construe the Contract shall lie in Leon County, Florida.
- XXV. Failure of the Department to declare any default immediately upon the occurrence or knowledge thereof, or delay in taking any action in connection therewith, does not waive such default. The Department shall have the right to declare any such default at any time and take such action as might be lawful or authorized under the Contract, at law, or in equity. No Department waiver of any term, provision, condition or covenant of the Contract shall be deemed to imply or constitute a further Department waiver of any other term, provision, condition or covenant of the Contract, and no payment by the Department shall be deemed a waiver of any default under the Contract.
- XXVI. Time is of the essence with regard to each and every obligation of the Contractor contained in the Contract. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from the untimely performance thereof) shall constitute a material breach.
- XXVII. The Contractor shall indemnify and hold harmless the Department, its attorneys, agents and employees, from and against any and all third party claims, suits, debts, damages, and causes of action, whatsoever, whether arising in law or in equity, arising out of or relating to Contractor performance or failure to perform under this Contract. The indemnification shall include reasonable attorney fees and costs incurred by the Department, its attorneys, agents and employees, in the defense of any such claim, suits or causes of action, as aforesaid.
- XXVIII. This Contract may be cancelled by written agreement of the Department and the Contractor specifically referencing this Contract. Such agreement shall specify the remaining measures necessary to be taken by each party.
- XXIX. The Department reserves the right to cancel this contract without cause by giving the Contractor thirty (30) days written notice.
- XXX. Should Contractor fail to perform to Contract terms and conditions, Contractor shall be notified in writing, stating the nature of the failure to perform and providing a time certain (which shall be not less than ten (10) days following receipt of such notice) for correcting the failure. Such failure to perform shall otherwise be dealt with in accordance with Rule 60A-1.006, F.A.C.
- XXXI. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
- XXXII. The employment of unauthorized aliens by any contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract. In addition, pursuant to State of Florida Executive Order No. 11-116, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the Contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.
- XXXIII. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions
- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal. The Department may cancel this contract if an attached explanation is not acceptable to the Department or the Federal government.

XXXIV MyFloridaMarketPlace

A. MyFloridaMarketplace Vendor Registration

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

B. MyFloridaMarketplace Transaction Fee

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

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

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

Failure to comply with these requirements shall constitute grounds for declaring the Vendor in default and recovering reprocurement costs from the Vendor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.