

AMENDMENT NO. 2
Renewal No. 2
State Term Contract 680-850-11-1
Body Armor (Protective Vests)

This Amendment No. 2 (Amendment), is effective January 30, 2015, to the State Term Contract for Body Armor (Protective Vests), No. 680-850-11-1 (Contract), effective between the State of Florida, Department of Management Services (Department) and (Contractor). Department and Contractor are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

WHEREAS the Contract was originally entered on January 30, 2011 with the Contractor for the provision of body armor (protective vests), and is scheduled to expire on January 29, 2015; and

WHEREAS upon mutual agreement, the Department and the Contractor agree to amend and renew the Contract, in accordance with Contract section **4.0 Renewal**; and

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

1.0 Contract Amendment and Renewal.

State Term Contract, Contract No. 680-850-11-1 is renewed for a period of two years at the same terms and conditions, with a new contract expiration date of January 29, 2017.

2.0 Diversity Reporting.

Paragraph 3.12.1 is deleted and replaced with the following:

"3.12.1 Diversity Reporting

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority, women, and veteran owned business enterprises in the economic life of the State. The State of Florida Mentor Protégé' Program connects minority, women, and 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 or email: osdhelp@dms.myflorida.com."

3.0 Preferred Pricing Affidavit.

Paragraph 5.18 is deleted and replaced with the following:

"5.18 Preferred Pricing Affidavit Requirement

An authorized representative of the Contractor shall provide a fully completed, signed and notarized Best Pricing Affidavit (Attachment 1) to the contract manager together with this signed Amendment No. 2 - Renewal No. 2."

4.0 Public Records.

This Contract is amended to add paragraph 5.19, as follows:

“5.19 PublicRecords

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

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the service.
- (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

The Department may unilaterally cancel this Contract for refusal by the Service Provider to comply with this section by not allowing public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Art. 1 of the State Constitution and s.119.07(1), F.S.”

5.0 Scrutinized Companies

This Contract is amended to add paragraph 5.20, as follows:

“5.20 Scrutinized Company List

Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, F.S. Pursuant to section 287.135(5), F.S., Contractor agrees the Department may immediately terminate this contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the Contract.”

6.0 E-Verify.

Paragraph 9.0 is deleted and replaced with the following:

“9.0 E-Verify

Pursuant to State of Florida Executive Order Number 11-116, Contractor is required to 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.”

7.0 Warrant of Authority.

Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind their respective part.

8.0 Conflict.

To the extent any of the terms of this Amendment conflict with the terms of the contract, the terms of this Amendment shall control.

9.0 Effect.

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

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

Contractor:

By: _____
Name: Kelley J. Scott,
Title: Director of State Purchasing and
Chief Procurement Officer

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

AMENDMENT NO. 1 - RENEWAL No. 1
To State Term Contract 680-850-11-1
Body Armor (Protective Vests)

This Amendment No. 1 (Amendment), is effective January 30, 2014, or the last date signed by both parties, to the Body Armor (Protective Vests), No. 680-850-11-1, effective between the State of Florida, Department of Management Services (Department) and (Contractor). The Department and Contractor are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

WHEREAS the Contract was originally entered on January 30, 2011 with the Contractor for the provision of body armor (protective vests) products, and is scheduled to expire on January 29, 2014; and

WHEREAS upon mutual agreement, the Customer and the Contractor agree to amend the Contract, in accordance with sections 4.26 Renewal and **5.2 Period of Agreement**; and

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

- 10.0 Contract Amendment.** Pursuant to sections 4.26 and 5.2 of the State Term Contract, the State Term Contract No. 680-850-11-1, is renewed for a period of one year at the same terms and conditions, with a new contract expiration date of January 29, 2015.
- 11.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.
- 12.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.
- 13.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.
- 14.0 Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
- 15.0 Entire Agreement.** Except as expressly modified by this Amendment, the contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Amendment and the contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

State of Florida,
Department of Management Services:

By: _____

Name: Kelley J. Scott

Title: Director of State Purchasing and
Chief Procurement Officer

Date: _____

Contractor:

By: _____

Name: _____

Title: _____

Date: _____



RICK SCOTT
Governor

DEPARTMENT OF MANAGEMENT
SERVICES

SCOTT STEWART
Interim Secretary

CERTIFICATION OF CONTRACT

TITLE: Body Armor

CONTRACT NO.: 680-850-11-1

ITB NO.: 14-680-850-O

EFFECTIVE: January 31, 2011 through January 30, 2014

SUPERSEDES: 680-850-05-1

CONTRACTORS: Central Lake Armor Express, Inc. (A)
Diamondback Tactical, LLLP (R)
ForceOne, LLC (A)
GH Armor Systems by Sentry Armor Systems, Inc. (A)
Point Blank Enterprise, Inc. (A)
Protective Products Enterprises, Inc. (A)
Safariland, LLC (A)
Survival Armor, Inc. (A)
U.S. Armor Corporation (A)

(REV. 18 April 12)

CONTRACT CERTIFICATION

Ammunition and Officers' Equipment

Page 2 of 2

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

Authorized Signature

(date)

CONTRACT ADMINISTRATOR

MINA BAREKAT, CPM®, CSM, FCCM

PHONE: 850-488-1985

FAX: 850-414-6122

EMAIL: Mina.Barekat@dms.myflorida.com

CONTRACT BETWEEN
FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AND
[CONTRACTOR NAME]
Contract No.: 680-850-11-1

This Contract is by and between the State of Florida, Department of Management Services (“Department”), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and [Contractor Name] (“Contractor”).

Whereas, the Contractor replied to the Division’s Invitation to Bid No.: ITB 14-680-850-O – Body Armor (“ITB”), and the Department awarded to Contractor pursuant to the terms and conditions of the ITB;

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

1.0 NAME OF CONTRACT

Body Armor; Contract No. 680-850-11-1.

2.0 EFFECTIVE DATE

This Contract shall begin on the last date signed by all parties, for an original term of 36 months.

3.0 EXPIRATION DATE

This Contract shall expire no later than six years (3 years for the original term of the contract and 6 years if renewed for the maximum term possible pursuant to Section 4.0 of this Contract) from the effective date of the Contract, unless terminated or allowed to expire earlier in accordance with its terms.

4.0 RENEWAL

Upon mutual written agreement, the Department and the Contractor may renew Contract No. 680-850-11-1 for up to three (3) years pursuant to Section 4.26 Renewal and Section 1.1 Purpose and Scope.

5.0 CONTRACT DOCUMENTS

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

A. This Document

B. ATTACHMENT I: ITB No. 14-680-850-O, and any addendums.

C. ATTACHMENT II: Contractor’s Response to the ITB No. 14-680-850-O

6.0 SUMMARY OF THE SCOPE OF WORK

Contractor will provide Body Armor, including Tactical, Concealable, Stab-resistant, K9 and accessories, in accordance with Section 4 General Conditions, Section 5 Special Conditions, and Section 6 Technical Specifications.

7.0 DELIVERABLES

Contractor will provide approved Body Armor products and accessories (and any related services) in accordance with contract specifications. Contractor will deliver those products and/or services in a timely manner, at the prices approved by the Department, and in accordance with all Contract conditions.

8.0 SUMMARY OF PENALTY FOR FAILURE OF CONTRACTOR TO MEET DELIVERABLES

Referencing Section 4.22 Termination for Convenience, the Department, by written notice to the Contractor, may terminate the Contract in whole or in part when it determines in its sole discretion that it is in the State's best interest to do so. Referencing Section 4.23 Termination for Cause, the Department 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.

9.0 EMPLOYMENT ELIGIBILITY VERIFICATION

Contractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program. Contractor further agrees to provide to the Department, within thirty days of the effective date of this contract/amendment/extension, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen", which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program within ninety days of the effective date of this contract/amendment/extension or within ninety days of the effective date of the contract between the Contractor and the subcontractor, whichever is later. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.

Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Department or other authorized state entity consistent with the terms of the Memorandum of Understanding.

Compliance with the terms of this Employment Eligibility Verification provision is made an express condition of this contract and the Department may treat a failure to comply as a material breach of the contract.

10.0 CONTRACT MANAGEMENT

A. Contract Administrator

The Department employee who is primarily responsible for overseeing the Contract file and the Contractor's performance of its duties and obligations pursuant to the terms of this Contract is:

Mark Lovell, PMP[®], CPPO, CPPB
Purchasing Analyst
Department of Management Services
Division of State Purchasing
4050 Esplanade Way, Suite 360
Tallahassee, FL 32399-0950
(850) 487-2304 (Voice)
(850) 414-6122 (Fax)
Mark.Lovell@dms.myflorida.com

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

B. Contractor's Representative

[Name, Title]
[Company name]
[Address]
[City, State, Zip]
Telephone:
Fax:
E-mail:

Changes to the Contractor's Representative contact information will not constitute an amendment to the Contract. Changes shall be requested by sending written notice to the Department. Any communication relating to the Contract shall be addressed to the Contract Administrator.

**State of Florida
Department of Management Services**

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

Secretary

Date

Date

**Contractor:
(Insert Name)**

Signature

Print Name

Title

Date

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SECTION 1.0

INTRODUCTION

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1.1 PURPOSE AND SCOPE

1.2 TIMELINE

1.1 PURPOSE AND SCOPE

The State of Florida (“State”), Department of Management Services (“Department”), invites interested Vendors to submit bids in accordance with these solicitation documents. The purpose of this solicitation is to establish a thirty-six (36) month State Term Contract for the acquisition of NIJ (National Institute of Justice; the research, development and evaluation agency of the United States Department of Justice) Standard 1010.06 (“NIJ .06 Standard”) tactical Body Armor, along with NIJ-approved stab-resistant Body Armor, with the potential option for renewals as allowed by Chapter 287, Florida Statutes.

The intent is to obtain the most cost effective price for Body Armor products and accessories for the State of Florida, while maximizing the quality and level of service. Qualified vendors must have the capability to provide equipment in all respects in accordance with the solicitation documents, and to the satisfaction of the Department. The Contract term will begin with completion of all the solicitation requirements, including those of paragraph 2.17 with potential options for renewal in accordance with Chapter 287, Florida Statutes.

1.2 TIMELINE

DO RELY THE	Event	Event Date	NOT ON
	Issue ITB in the MyFloridaMarketPlace Sourcing Tool	12/13/2010	
	Questions from Respondents Due via the MyFloridaMarketPlace Sourcing Tool Q & A Board (see Section 2.5) no later than 5:00 pm EST.	12/20/2010	
	Post Responses to Respondents’ Questions in the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System.	12/27/2010	
	ITB Responses Due within the MyFloridaMarketPlace Sourcing Tool, and any hard copy documents and CD’s due no later than 2:00 pm EST.	1/5/2011	
	Post Notice of Intent to Award on the Vendor Bid System.	1/17/2011	
	Contract Award	Per Section 2.17	

MYFLORIDAMARKETPLACE SOURCING TOOL’S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.2, TIMELINE. 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.

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.

SECTION 2.0

GENERAL INSTRUCTIONS TO RESPONDENTS (PUR 1001 REV 10/06)

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2.17	CONTRACT FORMATION
2.18	CONTRACT OVERLAP
2.19	PUBLIC RECORDS
2.20	PROTESTS
2.21	LIMITATIONS ON VENDOR CONTACT WITH AGENCY DURING SOLICITATION PERIOD

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. 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 LIMITATIONS 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.

SECTION 3.0

SPECIAL INSTRUCTIONS TO RESPONDENTS

CONTENT:

- 3.1 CONTACT PERSON**
- 3.2 ORDER OF PRECEDENCE**
- 3.3 DEFINITIONS**
- 3.4 WHO MAY RESPOND**
- 3.5 MYFLORIDAMARKETPLACE SOLICITATION OVERVIEW**
- 3.6 AMENDMENTS OR ADDENDUMS TO THE SOLICITATION DOCUMENTS**
- 3.7 ESTIMATED QUANTITIES**
- 3.8 SUBMITTAL OF RESPONSE**
- 3.9 EVALUATION CRITERIA**
- 3.10 BASIS FOR AWARD**
- 3.11 MANUFACTURER'S PRICE LIST DOCUMENTATION REQUIRED WITH SOLICITATION**
- 3.12 STATE OBJECTIVES**
- 3.13 LOBBYING**
- 3.14 SPECIAL ACCOMMODATION**
- 3.15 COST SAVINGS OBJECTIVE**
- 3.16 FLORIDA CLIMATE FRIENDLY PREFERRED PRODUCTS LIST**

3.1 CONTACT PERSON

The primary contact for this solicitation is:

Mark Lovell

Purchasing Analyst

Division of State Purchasing

Department of Management Services

4050 Esplanade Way, Suite 360

Tallahassee, FL 32399-0950

(850) 487-2304

Facsimile (850) 414-6122

Mark.Lovell@dms.myflorida.com

Please Note: All solicitation related questions must be submitted through the MyFloridaMarketPlace Sourcing Tool Q&A Board. MyFloridaMarketPlace System questions may be answered in the solicitation document, 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.

3.2 ORDER OF PRECEDENCE

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 Contract 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 Forms & Price Sheets

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

- (a) "State" means the State of Florida.
- (b) "The Department" means the Florida Department of Management Services.
- (c) "Procurement Officer" means the Buyer's contracting personnel, as identified in Section 3.1., or as amended by the Department.
- (d) "MSRP" is an acronym for the Manufacturer's Suggested Retail Price. It represents the manufacturer's recommended retail selling price for a specific item, or list of items, and must be publicly listed, available, and verifiable by the Department.
- (e) "Eligible User(s)" is defined in 60A-1.005, F.A.C. The following entities are eligible users:
 1. All governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the State of Florida;
 2. Any independent, non-profit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools.Section 287.056 of the Florida Statutes governs agencies' use of the Contract. Others may seek Department approval under section 287.042(2)(a) as an eligible user of the Contract.

- (f) “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.
- (g) “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.
- (h) “Manufacturer(s)” or OEM(s) means the Original Equipment Manufacturer or original producer or provider of a Commodity and / or service.
- (i) “Dealer(s)” or Distributor(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.
- (j) “Commodity(ies)” means a tangible good, which may or may not meet the specifications herein.
- (k) “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.

3.4 WHO MAY RESPOND

The Department will accept Responses from Body Armor Manufacturers, Dealers, and Distributors who are in good standing with the State of Florida, and that operate at least one distribution facility within the state.

Respondents must maintain at least one factory-authorized service station and/or servicing dealer within the State of Florida to perform fittings, warranty repairs, and adjustments throughout the Contract Term, and will be required to maintain that capability throughout the Contract Term.

By submitting a Response, each Respondent certifies that it satisfies all criteria specified in the solicitation documents. The Department may request, and the Respondent shall provide, supporting information or documentation. **Failure to supply supporting information or documentation if requested, may result in the Response being deemed non-responsive.**

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 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

This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool at: <https://sourcing.myfloridamarketplace.com/>. Optional training on how to respond to this solicitation electronically is offered at:

http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.

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.
- 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.

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 the MyFloridaMarketPlace Sourcing Tool?
- Required Items - Are all items listed on the solicitation completed as required within the MyFloridaMarketPlace Sourcing Tool?

DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.2, TIMELINE. 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.

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.

3.5.4 MyFloridaMarketPlace and Vendor Bid System Email Notification

Vendors are reminded that the Sourcing Tool's 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 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. Spend information is based on historic data. This figure shall not be construed as a commitment.

- **Estimated Annual Spend: \$3.3 Million (\$3.3M USD)**

The above figure reflects estimated annual spend generated by Eligible Users of past contracts for similar Commodities and or contractual services and is not a commitment.

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 Bid

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. For this solicitation, a bidder response CD containing all files and documents required must be received at the Department by the date and time indicated in Section 1.2, Timeline. This CD must include the MS Excel price sheets (reference ITB Section 7.9), along with the MS Word forms identified as Sections 7.1 through 7.7.

The outer packaging of mailed documents shall **clearly state**: Solicitation Title and Number and the ITB Response Due Date and Time from the Timeline in Section 1.2 of the solicitation. **Failure to provide all required information within the solicitation Response may 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 7.8) 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 may be deemed non-responsive.**

3.8.2 Ordering Instructions and Authorized Servicing Dealers Forms

Respondent shall submit a completed Ordering Instructions form (Section 7.1) that identifies persons responsible for answering questions about the Response, and administering the Contract, if awarded, and shall provide information necessary for placing orders under the Contract, if awarded. In addition, an Authorized Servicing Dealer form (Section 7.2) must be submitted listing one or more in state representatives. If the Respondent is located in the State of Florida, then the Respondent may be listed as an in state representative. Both these forms must be submitted in the MyFloridaMarketPlace Sourcing Tool, and also be mailed to the attention of the Contact Person in Section 3.1 of the solicitation. **Failure to provide these forms by the date and time specified in Section 1.2, Timeline, may result in the Response being deemed non-responsive.**

3.8.3 Savings/Price Reduction Form

Respondent shall submit a completed Savings/Price Reduction form (Section 7.3) with their Response, containing the required savings information for each manufacturer's brand offered, and a method for the Department to verify the savings information provided. The form must be submitted in the MyFloridaMarketPlace Sourcing Tool, and also be mailed to the attention of the Contact Person in Section 3.1 of the solicitation. **Failure to provide this form by the date and time specified in Section 1.2, Timeline, may result in the Response being deemed non-responsive.**

3.8.4 Certification of Drug Free Workplace Form

Respondent shall submit a completed Certification of Drug Free Workplace Form (Section 7.4) with their Response, certifying that the Respondent has a drug free workplace program. The form must be submitted in the MyFloridaMarketPlace Sourcing Tool, and also be mailed to the attention of the Contact Person in Section 3.1 of the solicitation. **Failure to provide this form by the date and time specified in Section 1.2, Timeline, may result in the Response being deemed non-responsive.**

3.8.5 Manufacturer's Price List Certificate

Respondents shall submit a current Manufacturer's Price List Certificate form (Section 7.5) for each Manufacturer's Brand offered on the Price Sheets. This certification must also be executed by the Manufacturer when offering its own products. The Manufacturer's Price List Certificate form must be executed by the Manufacturer only, and may not be completed by a Dealer or third-party. This form must be executed for each Manufacturer's brand offered, and must be submitted with the Response in the MyFloridaMarketPlace Sourcing Tool, and also be mailed to the attention of the Contact Person in Section 3.1 of the solicitation. **Failure to provide this form by the date and time specified in Section 1.2, Timeline, may result in the Response being deemed non-responsive.**

3.8.6 Manufacturer's Certification of Authorized Dealer/Distributor

Respondent shall submit one current completed Manufacturer's Certification of Authorized Dealer/Distributor form (Section 7.6), certifying that the Respondent is the Manufacturer, or an Authorized Dealer/Distributor for each Manufacturer's Brand offered as part of the Response. This certification must also be executed by the Manufacturer when offering its own products. By submitting such Manufacturer's Certification(s), the Respondent agrees to maintain proper certification by the Manufacturer of the goods it offers for sale under this solicitation throughout the Contract Term. The Manufacturer's Certification form must be executed by the Manufacturer only and may not be completed by a Dealer or third-party. Dealer agreements will not be accepted in lieu of a Manufacturer's Certification form. This form must be executed for each Manufacturer's brand offered, and must be submitted with the Response in the MyFloridaMarketPlace Sourcing Tool, and also be mailed to the attention of the Contact Person in Section 3.1 of the solicitation. **Failure to provide this form by the date and time specified in Section 1.2, Timeline, may result in the Response being deemed non-responsive.**

3.8.7 Quarterly Sales Summary Reports

A Quarterly Sales Summary Report form is provided (Section 7.7) for reference purposes, and is not required to be submitted as part of a solicitation Response. This form will be used to supply sales reports during the contract term, as described in Section 5.13 of this solicitation.

3.8.8 Bid Preparation Checklist

A Bid Preparation Checklist form is provided (Section 7.8) for reference purposes, and is not required to be submitted as part of a solicitation Response. The Bid Preparation Checklist is a guide to assist the Respondent in verifying the completeness of the Response. The Bid Preparation Checklist does not relieve the Respondent of the responsibility of ensuring that all requirements of this solicitation are included with submittal of their Response.

3.8.9 Price Sheets

Price Sheets for submittal of pricing are provided in the form of an Excel™ Spreadsheet attachment in the MyFloridaMarketPlace Sourcing Tool. The Price Sheets containing the Respondent's offer shall be submitted in the MyFloridaMarketPlace Sourcing Tool. **Failure to provide this form by the date and time specified in Section 1.2, Timeline, shall result in the Response being deemed non-responsive.**

3.8.10 Alternate Responses

Respondent may not submit more than one offer for each Manufacturer's Brand provided in their Response. The Department seeks each Respondent's single-best Response by Manufacturer's Brand offered.

3.9 EVALUATION CRITERIA

The Department shall evaluate eligible responsive offers. Responses that do not meet all requirements of the solicitation or fail to provide all required information, documents, or materials may be rejected as non-responsive. Respondents whose Responses, 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 meet the requirements, specification, terms, and conditions of the solicitation, and which Respondents are responsive and responsible.

3.10 BASIS FOR AWARD

The Department intends to make a statewide award to one responsive Respondent for each manufacturer or brand name. The award will be based on the highest percentage discount offered from the current manufacturer's list price sheet for Body Armor products and accessories available in the complete manufacturer's catalog, or the manufacturer's Body Armor products available in the Respondent's catalog.

In the event that a manufacturer's product line is divided into categories with different pricing structures, the discount from manufacturer's list price sheet for each pricing category available in the Respondent's catalog must be clearly identified, with the Product Line/Manufacturer's Name added to the spreadsheet tab(s). The average of the discounts offered will be used to determine the award discount percentage for that manufacturer or brand name. The award will be made statewide to the one responsive Respondent that offers the highest average percent discount for the given manufacturer's Body Armor products and accessories.

The Department reserves the right to accept or reject any and all bids, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the best interest of the State of Florida.

3.11 MANUFACTURER'S PRICE LIST DOCUMENTATION REQUIRED WITH SOLICITATION

For each Manufacturer or Brand Name of Body Armor products a Respondent offers on the solicitation price sheets, the Respondent shall enter a manufacturer's price list number and date of issue. Manufacturer's Price lists must be supplied for every Manufacturer or Brand Name of Body Armor products offered. The price lists may be printed, or on a CD in Excel™, or Adobe Acrobat 9.0, or earlier (.pdf) electronic format. Each CD must be clearly marked on its exterior to identify its contents. It is the Respondent's responsibility to ensure that the documents and discs are applicable, complete, and readable. Non-compliant or non-readable documents and discs will be rejected, and the response shall be deemed non-responsive.

The Department in its sole discretion will determine which items within a catalog are acceptable and appropriate for the contract resulting from this bid. Any product additions or deletions from these items during the term of the contract shall be done in accordance with the contract Special Conditions.

The Manufacturer's Price Lists shall be mailed to the Department per Section 3.8.1 of the solicitation. Failure to provide complete and compliant Manufacturer's Price Lists by the date and time specified in Section 1.2, Timeline, may result in the Respondent being deemed non-responsive.

3.12 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.

3.12.1 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/.

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

3.12.2 Environmental Considerations

The State supports and encourages initiatives to protect and preserve our environment. The Respondent shall submit as part of any proposal the Respondent's plan to support the procurement of products and materials with recycled content. The Respondent shall also provide a plan for reducing and or handling of any hazardous waste generated by Respondent'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 Respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

3.12.3 Certification of Drug-Free Workplace Program

The State supports and encourages initiatives to keep the workplaces of Florida's businesses and Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie Responses are received, preference shall be given to a Response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that it has a drug-free workplace program using the "Certification of Drug-Free Workplace" form included in Section 7.0 of this solicitation. The Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation.

3.12.4 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 Department are concerned. Additional information about the designated nonprofit Department 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 in this solicitation.

3.12.5 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 the state 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 in the solicitation.

3.13 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.

3.14 SPECIAL ACCOMMODATION

Any person requiring a special accommodation at State Purchasing because of a disability should call State Purchasing at (850) 488-8440 at least five (5) business days prior to the bid opening. If you are hearing or speech impaired, please contact State Purchasing by using the Florida Relay Service at (800) 955-8771 (TTY).

3.15 COST SAVINGS OBJECTIVE

Chapter 2010-151, Laws of Florida, Section 47, provides the following:

Each state agency, as defined in s. 216.011, Florida Statutes, shall review existing contract renewals and reprocurements 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 to achieve this objective, the Department seeks to achieve a cost savings of at least 3 percent when compared to the pricing contained in the Department's most recent state term contract for these commodities. Current and previous contract can be accessed through the Division of State Purchasing's website at:

http://dms.myflorida.com/business_operations/state_purchasing.

3.16 FLORIDA CLIMATE FRIENDLY PREFERRED PRODUCT LIST

In addition to ENERGY STAR compliance, Respondents are encouraged to offer products that meet the Florida approved green product labels/standards. Under the leadership of Florida Governor Charlie Crist, the Department of Management Services (DMS) encourages the purchase of environmentally preferable products (EPPs) by Florida governmental entities where possible. Upon award, Contractors will be encouraged to submit a list of their qualifying products for review and posting to the Florida Climate Friendly Preferred Products List. The current list can be viewed at the following DMS website link:

http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists/florida_climate_friendly_products_list

The Florida Climate Friendly Preferred Products List includes state contract approved products that have received one or more of the following certifications, labels, and standards:

[California Energy Commission \(CEC\) Appliance Efficiency Regulations](#)

[California Environmentally Preferred Products Guide](#)

[California State Agency Buy Recycled Program \(SABRC\)](#)

[Electronic Product Environmental Assessment Tool \(EPEAT\)](#)

[Energy Star](#)

[EPA Comprehensive Procurement Guidelines \(CPG\)](#)

[EPA SmartWay and SmartWay Elite](#)

[EPA WaterSense](#)

[Forest Stewardship Council \(FSC\)](#)

[Green Seal](#)

[Greenguard](#)

[MDBC's Cradle to Cradle Silver Certification \(or higher\)](#)

[Minnesota Green Guardian EPP Guide](#)

[NEMA Premium](#)

[RoHS](#)

[SCS \(Scientific Cert. Sys.\) / NSF International](#)

[Terra Choice / Ecologo](#)

[US Federal Energy Management Program \(FEMP\)](#)

[USDA Organic Label](#)

SECTION 4.0

GENERAL CONTRACT CONDITIONS [PUR 1000 (REV 10/06)]

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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 reprocurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

4.15 INVOICING AND PAYMENT

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

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

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

4.16 TAXES

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

4.17 GOVERNMENTAL RESTRICTIONS

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

4.18 LOBBYING AND INTEGRITY

Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or

relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dlist.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

4.19 INDEMNIFICATION

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

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

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

4.20 LIMITATION OF LIABILITY

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase

order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

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

4.21 SUSPENSION OF WORK

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

4.22 TERMINATION FOR CONVENIENCE

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

4.23 TERMINATION FOR CAUSE

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

termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

4.24 FORCE MAJEURE, NOTICE OF DELAY, AND NO DAMAGES FOR DELAY

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

4.25 CHANGES

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

4.26 RENEWAL

Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation Response. The renewal must be

in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

4.27 PURCHASE ORDER DURATION

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

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

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

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

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

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

4.28 ADVERTISING

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

4.29 ASSIGNMENT

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

4.30 ANTITRUST ASSIGNMENT

The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

4.31 DISPUTE RESOLUTION

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

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

4.32 EMPLOYEES, SUBCONTRACTORS, AND AGENTS

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

4.33 SECURITY AND CONFIDENTIALITY

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

4.34 CONTRACTOR EMPLOYEES, SUBCONTRACTORS, AND OTHER AGENTS

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

4.35 INSURANCE REQUIREMENTS

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

4.36 WARRANTY OF AUTHORITY

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

4.37 WARRANTY OF ABILITY TO PERFORM

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

4.38 NOTICES

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

4.39 LEASES AND INSTALLMENT PURCHASES

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

4.40 PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (PRIDE)

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

4.41 PRODUCTS AVAILABLE FROM THE BLIND AND 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.

SECTION 5.0

SPECIAL CONTRACT CONDITIONS

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5.1 DEFINITIONS

The definitions referenced, and contained, in Sections 2.1, 3.3, and 4.1 of this document, shall apply to this Section.

5.2 PERIOD OF AGREEMENT

This agreement shall be in effect from the start date of the Contract for an initial period of thirty six (36) months, with options to renew for three (3) additional twelve (12) month periods, or one thirty-six (36) month period. Renewal is contingent upon satisfactory performance by the Contractor, and subject to approval of the Director of State Purchasing.

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 shall provide certain information in electronic format directly to the Service Provider (This format is generally Microsoft EXCEL™).

Within ten (10) days of written notice from the Service Provider, Contractor shall provide all information necessary to facilitate electronic purchases from this Contract for up to 3000 of the highest sales volume line items as determined by the contractor's experience in selling to governmental entities in Florida. Such information may include, but is not limited to, Contractor name, brand/manufacturer, SKU, product name and brief description, unit of measure, and price. Contractor shall provide this information in the format required by the Service Provider. No costs or expenses associated with providing this information shall be charged to the Department, Eligible Users, or Service Provider. With the Contractor's timely assistance, the Service Provider shall create and maintain web-based placement of the requested Contract information.

A copy of this electronic format data shall be sent to the Contract Administrator, at the same time that it is sent to the third-party service provider, in order to allow pricing information to be displayed in the State Term Contract Website. This data is required from all contractors, including those with punchout websites in MFMP.

5.4 CONTRACT HOME PAGE

Each Contract Vendor may develop and maintain a State Contract Web Page on the Internet to enable access to and ordering from the Contractor's catalog for all eligible users that are outside of MyFloridaMarketPlace.

State Contract Web Site must have the following requirements:

- State-specific current contract pricing
- Detailed item descriptions; pictures if appropriate
- Indicators of recycled product and minority manufactured product, when possible
- Robust search engine capabilities
- Additional links or information may be placed on the screen to access additional product literature, the vendor's home page, the history of the company, etc.
- “Shopping-cart” ordering capability
- Universal Resource Locator (URL) for the Internet Page will be supplied to the Department for review and approval of the website. A link to the State Contract Website will not be made prior to the Contract Administrator's written approval of the website

- Any deviation from the approved website during the term of the contract, without prior written approval by the Department, shall be grounds for removal of the link from the State Contract Website
- The State reserves the right to permit alternate website configurations to facilitate ease of use by contract customers

Failure to follow the above specifications as required in this section will be grounds for the link being broken from the State Contract and may be grounds for default proceedings and/or contract termination.

5.5 PRODUCT ADDITIONS/DELETIONS

No changes to the price list/catalog are permitted without the written approval of the Contract Administrator. The Department may, in its sole discretion, reject any requested change, and/or direct a Contractor to undo any change already made. Any proposed product additions offered shall satisfy all criteria specified in the solicitation documents and the terms of the Contract, and shall be limited to the product categories listed on the solicitation price sheets, and will only be considered when a manufacturer publishes a new price sheet that is submitted by the contractor in accordance with Section 5.7, Price and Product Adjustment.

5.6 COMPLIANCE WITH LAWS

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Contract termination.

5.7 PRICE AND PRODUCT ADJUSTMENT

Any request for **revision of pricing or products shall** be submitted to The Department with the State reserving the right to accept or reject the request, or cancel the contract. Product additions or deletions shall be limited to only those manufacturer and brand name products awarded to the contractor making the request. **Any price or product adjustments shall not become effective until approved in writing by State Purchasing.** Price or products adjustment requests will be considered once a year on each anniversary of the contract start date, and must be submitted to State Purchasing 60 days before the contract anniversary. The amount of a requested price increase shall not exceed the percent change of the manufacturer's price list. In addition, the percent change in the specified Producer Price Index (PPI) will be considered by the Department in its decision to accept or reject a requested price increase. Equitable Adjustment [Section 4.4 (e)] may be considered if all the specified conditions are met.

The PPI used for Body Armor products will be Other Industrial Safety Equipment (WPU 1571).

The contractor may decrease prices at any time, but must notify the Department when it intends to make the decrease effective.

5.8 TRANSACTION FEE 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 or 866-FLA-EPRO (866-352-3776) between the hours of 8:00 AM to 5:30 PM Eastern Time.

5.9 SERVICE REQUIREMENTS

Contractor shall provide the contract products to all Eligible Users of this Contract throughout the State of Florida. All products offered under this Contract shall be new and unused and in current production. Contractor is expected to provide reasonable levels of customer service including customer and technical support and training where applicable and requested. Customer complaints related to service and support will be monitored; repeated failure to satisfy customer service requirements may be cause for default proceedings and/or contract termination.

5.10 DELIVERY AND MINIMUM ORDERS

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, and if the delay is unacceptable, the Customer may cancel the order. Evidence of inability to deliver or intentional delays may be cause for default proceedings and/or termination. Orders of less than \$25 will not be processed. **NOTE:** This provision shall not be used by an agency to circumvent the intent of the contract.

5.11 ORDER FILL RATE %

Order Fill rates will be maintained at 95% or greater. Order Fill rate is defined as “the ratio of the number of items on an order filled completely as ordered, to the total number of items of the order.” Failure to meet this requirement may be cause for default proceedings and/or termination.

5.12 PURCHASING CARD

The State of Florida and numerous 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 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 Eligible User.

The 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.

5.13 SALES SUMMARY REPORTS

The following data must be reported to the Department on a calendar quarterly basis using the form titled "Quarterly State Term Contract Sales Summary Report" that is located in Section 7.8 of this document. The report shall include:

- Contractor's Name
- Reporting Period
- Total dollar value of purchases per quarter separated by State Agency and Eligible User totals
- Listing total dollar value of Environmentally Preferred Products sales and contract sales through Certified Minority Business Enterprises.

In a separate more detailed accounting, and upon request by the Contract Administrator, an EXCEL™ line item annual report must be supplied that includes the following information:

- Total purchases for the specified period that includes columns for the following information: manufacturer's name, agency name, product number, item description, product group number (if applicable), unit of measure, quantity, manufacturer list price, percentage discount taken and final purchase price.

Failure to provide quarterly reports, including no sales, within thirty (30) calendar days following the end of each quarter, or annual EXCEL™ line item reports within thirty (30) calendar days from a request by the Contract Administrator, may result in default proceedings and/or termination of the contract.

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

Initiation and submission of the "Quarterly State Term Contract Sales Summary Reports" are to be the responsibility of the Contractor without prompting or notification by the Contract Administrator. The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Administrator. The Department shall distribute, in electronic format, the "Quarterly State Term Contract Sales Summary Report" forms to be used by the awarded Contractor upon Contract signature.

5.14 BUSINESS REVIEW MEETINGS

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

- Review of Contractor performance
- Review of minimum required reports
- 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.

5.15 COMPLIANCE WITH LAWS

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Contract termination.

5.16 LOBBYING AND INTEGRITY

Please note that there has been an update to the Florida Department of State website link given in Section 4.18 of this solicitation regarding General Records Schedules. The revised URL is: http://dhis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm .

5.17 INTELLECTUAL PROPERTY

The parties do not anticipate that any Intellectual Property will be developed or created as a result of the Contract. However, in such case as it is developed or created, any Intellectual Property developed or created as a result of the Contract will belong to and be the sole property of the State of Florida. This provision will survive the termination or expiration of the Contract.

5.18 PREFERRED PRICING COMPLIANCE

In accordance with Chapter 2010-151, Laws of Florida, Section 48(2), the Contractor is required to submit, at least once during each year of the Contract, an Affidavit from an authorized representative of the Contractor attesting that the Contract is in compliance with Section 4.4(b), Best Pricing Offer. Contractor's failure to comply with Section 4.4(b) may be grounds for terminating the Contract, at the Department's sole discretion. The Department shall distribute the Affidavit form to be used by the Contractor upon Contract Formation, General Instructions to Respondents (PUR 1001), Section 2.17.

SECTION 6.0

TECHNICAL SPECIFICATIONS

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- 6.1 ADDITIONAL DEFINITIONS
- 6.2 SCOPE AND CLASSIFICATION
- 6.3 APPLICABLE PUBLICATIONS
- 6.4 STANDARD PRODUCTS
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- 6.11 PRODUCT INFORMATION

6.1 ADDITIONAL DEFINITIONS

The following definitions apply to this Section of the document, and supplement those contained elsewhere in this solicitation.

- (a) “Manufacturer” means the person or company in the business of manufacturing, processing or refining products included in this specification.
- (b) “Manufacturer’s Representative” means a person engaged by the Manufacturer to sell or promote sales of the Manufacturer’s products.
- (c) “NIJ .06 Standard (Body Armor)” refers to Body Armor tested and approved for U.S. sales by the U.S. Department of Justice/National Institute of Justice. Additional information on this agency and NIJ .06 Body Armor Standards can be located at <http://www.ojp.usdoj.gov/nij> and <http://www.justnet.org>.
- (c) “Servicing Dealer” means a sales establishment that maintains a relationship with the Manufacturer, and promotes, sells, installs, and maintains products for the Manufacturer.

6.2 SCOPE AND CLASSIFICATION

This specification covers tactical Body Armor products and accessories identified by the National Institute of Justice (NIJ), Standard number 1010.06. See “Applicable Publications” in the next section for a link to the NIJ website. Respondents may also submit Stab Resistant Body Armor products and prices for potential award that meet the most recent NIJ standards.

Commodity Numbers: Applicable commodity numbers and descriptions are listed below:

<u>Commodity Number</u>	<u>Description</u>
680-850	Vests, Armored. Police Protection

The specification does not include all varieties of Body Armor products which are commercially available, but is intended to cover only those generally used by the State of Florida. (e.g., NIJ .06 Standard tactical vests and NIJ-approved stab-resistant products) This specification is general in detail of construction and materials used, as it is recognized that there is a variation in the manufacturing process by manufacturers who produce acceptable products. Body Armor products shall conform in quality, design and construction with all published claims of the manufacturer and the requirements of this specification.

6.3 APPLICABLE PUBLICATIONS

Products must conform to the requirements of the latest issue of these publications in effect at the date of ITB issuance. These publications are available on the Internet at <http://www.justnet.org/Pages/Topic.aspx?opentopic=10&topic=10>.

Ballistic Resistance of Body Armor, NIJ Standard-0101.06, July 2008
[Abstract PDF](#)

NIJ Standard 0115.00, Stab Resistance of Personal Body Armor, September 2000
[Abstract PDF](#)

6.4 STANDARD PRODUCTS

Body Armor products and their component parts covered by this specification shall be standard products of the manufacturer or his/her suppliers. Items furnished shall be new and unused and shall be current year models except for changes necessary to comply with specification requirements. All accessories and components normally furnished with the standard product offered commercially shall be furnished with each Body Armor product.

6.5 WORKMANSHIP

All Body Armor products shall be clean and free from any defects or features affecting appearance, serviceability or safety of the user in normal intended use.

6.6 BRAND NAMES

The Excel™ product and price sheets that are attached to this solicitation (Section 7.9) are used to evaluate responses to this solicitation for potential award. Respondents shall download this spreadsheet and fill out the required information. The 'tab' for each product group listed should be renamed to identify the Body Armor product line being offered. If your submission includes only one brand name, and all products are offered at the same discount from MSRP, then only one tab will be necessary. If you are submitting responses for more than one manufacturer or brand name, or if there are differing MSRP discounts for a group of products, then the tabs should be renamed to separate the different manufacturers or product lines offered.

6.7 PREPARATION FOR DELIVERY

All products shall be packed to ensure safe delivery to destination at lowest rates. Packaging shall comply with the requirements of Section 403.7191 of the Florida Statutes. Each container shall be

marked to include a description of the product, the name of the Contractor, the State's contract number, and the Customer's purchase order numbers.

6.8 SAMPLING AND INSPECTION

Samples of delivered products may be selected at random by the Department or Customer, and tested for compliance with these specifications. Failure to comply with the specifications shall be grounds for default proceedings and/or Contract termination.

6.9 WARRANTY

At the time of delivery the Contractor shall provide the Customer the Manufacturer's standard warranty against defective material and workmanship. Failure by any Contractor, as an authorized representative of the Manufacturer, to render proper warranty service/adjustments shall be considered a breach of this Contract. Warranty shall cover all labor and component parts of the products and any other costs which may be included.

6.10 FACTORY SERVICE REQUIREMENT

Contractor shall maintain at least one factory-authorized service station and/or servicing dealer within Florida to perform warranty repairs and adjustments throughout the Contract term. Contractor shall maintain the Servicing Dealer List submitted with the bid throughout the Contract term, and shall promptly notify the Department of any changes thereto; however, changes to the Servicing Dealer List shall not be Contract amendments. This arrangement does not relieve the Contractor of its duty to maintain at least one authorized service location within Florida. The Contractor may offer the Customer "after warranty" service agreements for the maintenance and repair of goods after the initial warranty expires. If accepted by the Customer in writing, this additional service shall be listed as a separate item on the Purchase Order and the invoice.

6.11 PRODUCT INFORMATION

Requests by Customers for manufacturer's price lists, product literature, specifications, and technical information must be provided within five (5) working days after receipt of written request, at no charge to Customers.

SECTION 7.0

FORMS AND PRICE SHEETS

CONTENTS

- 7.1 ORDERING INSTRUCTIONS**
- 7.2 AUTHORIZED SERVICING DEALER LIST**
- 7.3 SAVINGS/PRICE REDUCTIONS**
- 7.4 CERTIFICATION OF DRUG FREE WORKPLACE PROGRAM**
- 7.5 MANUFACTURER'S PRICE LIST CERTIFICATE**
- 7.6 MANUFACTURER'S CERTIFICATION OF AUTHORIZED DEALER/DISTRIBUTOR**
- 7.7 QUARTERLY STATE TERM CONTRACT SALES SUMMARY REPORT**
- 7.8 BID PREPARATION CHECKLIST**
- 7.9 PRICE SHEETS (EXCEL™ ATTACHMENT REQUIRING SEPARATE DOWNLOAD)**

7.1 ORDERING INSTRUCTIONS

RESPONDENT INFORMATION:

Respondent (Company) Name: _____
Respondent FEID Number: _____
Name: _____
Title: _____
Street Address: _____
E-mail Address: _____
Phone Number(s): _____
Fax Number: _____

PERSON RESPONSIBLE FOR ADMINISTERING CONTRACT:

Name: _____
Title: _____
Street Address: _____
E-mail Address: _____
Phone Number(s): _____
Emergency Number(s): _____
Fax Number: _____

ORDERING AND REMITTANCE INFORMATION:

Please provide the following information about where Customers should direct orders. You must provide a regular mailing address. If equipped to receive purchase orders electronically, you may also provide an Internet address. Please enter Respondent's Name, or "See Servicing Dealer List".

Name: _____
Street Address or P.O. Box: _____
City, State, Zip: _____
Ordering Fax Number: _____
Internet Address: _____
FEID Number: _____
Remit Address: _____
City, State, Zip: _____

NOTE: Duplicate as necessary for multiple ordering locations.

AUTHORIZED SIGNATURE: _____

TELEPHONE NUMBER: _____

BIDDER/RESPONDENT NAME: _____

IF CONTRACT AWARDED, STATE PURCHASING ANALYST/SPECIALIST TOOK THE FOLLOWING STEPS TO VERIFY SAVINGS:

WHAT WERE THE RESULTS? _____

PURCHASING ANALYST/SPECIALIST: _____

7.5 MANUFACTURER’S PRICE LIST CERTIFICATE

THIS MUST BE EXECUTED BY THE MANUFACTURER. DEALERS AND/OR REPRESENTATIVES ARE NOT AUTHORIZED TO SIGN THIS CERTIFICATION FORM ON BEHALF OF THE MANUFACTURER. THIS CERTIFICATION MUST BE EXECUTED BY THE MANUFACTURER EVEN IF IT IS BIDDING ITS OWN EQUIPMENT. FAILURE TO SUBMIT THIS CERTIFICATION WITH YOUR RESPONSE SHALL RESULT IN DISQUALIFICATION OF THE RESPONSE.

THE MANUFACTURER SHALL PROVIDE THE SAME PRICE LIST TO ALL MANUFACTURER AUTHORIZED DEALERS/DISTRIBUTORS RESPONDING TO THE STATE CONTRACT BID NUMBER: 14-680-850-O, OPENING DATE: **January 5, 2011.**

PRICE LIST URL OR NO.* _____ DATED* _____ BEING SUBMITTED WITH THIS RESPONSE IS THE ONLY PRICE LIST AUTHORIZED TO BE USED BY ALL RESPONDENTS. AWARD MAY NOT BE MADE TO A RESPONDENT SUBMITTING ANY OTHER PRICE LIST.

*THIS FORM SHALL BE COMPLETED BY THE MANUFACTURER FOR EACH CATEGORY OF EQUIPMENT OFFERED.

IT IS RECOMMENDED THAT THE MANUFACTURER REVIEW THIS INVITATION TO BID AT: <https://sourcing.myfloridamarketplace.com/>

THE BID CAN BE VIEWED WITH “READ ONLY” ACCESS BY ENTERING A USERNAME OF “publicuser” (WITHOUT QUOTATION MARKS), AND A PASSWORD OF “publicuser” (AGAIN, WITHOUT QUOTATION MARKS).

MANUFACTURER _____

BRAND NAME _____

ADDRESS _____

SIGNATURE _____

TITLE _____

7.6 MANUFACTURER’S CERTIFICATION OF AUTHORIZED DEALER/DISTRIBUTOR

This is to certify that _____
Organization Name

is the Manufacturer or Manufacturer's authorized Dealer for _____
Manufacturer / Brand Name

DATE: _____

MANUFACTURER NAME: _____

ADDRESS: _____

TELEPHONE NUMBER(S): _____

E-MAIL: _____

AUTHORIZED EMPLOYEE NAME: _____

TITLE: _____

SIGNATURE: _____

NOTE: THE MANUFACTURER'S CERTIFICATION FORM MUST BE COMPLETED AND SUBMITTED PER SECTION 3.8.6, MANUFACTURER'S CERTIFICATION.

7.7 QUARTERLY STATE TERM CONTRACT SALES SUMMARY REPORT

Vendor Name:	FEID#:
Contact Person:	Phone Number: <input type="text"/> Email: <input type="text"/>

Contract Title: Body Armor	Contract #: 680-850-11-1
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Fax or Email this form to: Mark Lovell - Fax: 850-414-6122 / Email: Mark.Lovell@dms.myflorida.com

Report reflects all sales for the 2011-2014 (YEARS) CALENDAR QUARTER: Check One

<input type="checkbox"/> Quarterly Period Ending March 31st	<input type="checkbox"/> Quarterly Period Ending June 30th
<input type="checkbox"/> Quarterly Period Ending September 30th	<input type="checkbox"/> Quarterly Period Ending December 31st

ENTITY	TOTAL DOLLARS
STATE AGENCIES: Report dollar amount sold to all State Agencies.	\$ _____
POLITICAL SUBDIVISIONS: Report dollar amount sold to other Political Subdivisions [including but not limited to, Counties, Cities, Schools, Universities, Colleges and Utilities].	\$ _____
ENVIRONMENTALLY PREFERRED PRODUCTS: Report dollar amount sold to agencies: Report dollar amount sold to political subdivisions:	\$ _____ \$ _____
MINORITY BUSINESS ENTERPRISES: Report dollar amount sold to agencies: Report dollar amount sold to political subdivisions:	\$ _____ \$ _____
GRAND TOTAL:	\$ _____

Under penalties of perjury, I declare that this is a true and accurate report of all sales due under the terms and conditions of this state term contract for the specified quarterly reporting period.

AUTHORIZED TYPED SIGNATURE: 

AUTHORIZED ELECTRONIC SIGNATURE:



Notes:

- 1) A quarterly report is required even if there are no sales for the specified quarter; please enter zero dollars where applicable.
- 2) This form is for the reporting of quarterly sales only. It is not related to reporting and payment of vendor transaction fees.
- 3) To enter electronic signature, click text box, click "Insert" (on tool bar), select "picture", and select picture type to paste or enter signature.
- 4) For information concerning the use of this form, please contact the Contract Administrator named above.

7.8 BID PREPARATION CHECKLIST

The Bid Preparation Checklist is a guide to assist the Respondent in verifying the completeness of their Bid. The Bid Preparation Checklist does not relieve the Respondent of the responsibility of ensuring that all requirements of this solicitation are included 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 terms and conditions of all agreements with State of Florida agencies.

_____ Downloaded and Read entire solicitation.

_____ Downloaded and / or become familiar with the Timeline and all items contained in the MyFloridaMarketPlace Sourcing Tool RFX Info Tab for this solicitation.

_____ If necessary, reviewed the MyFloridaMarketPlace Sourcing Tool Online Training Guide and / or received assistance from the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or vendorhelp@myfloridamarketplace.com.

_____ Submitted all questions to the MyFloridaMarketPlace Q&A Board by specified deadline.

_____ Viewed answers to submitted questions as posted in addendum to solicitation on the MyFloridaMarketPlace Sourcing Tool.

_____ Downloaded Price Sheets and reviewed carefully.

_____ Entered required pricing and information on Price Sheets and uploaded to the MyFloridaMarketPlace Sourcing Tool.

_____ Provided answers to all questions.

_____ Submitted Bid using the MyFloridaMarketPlace Sourcing Tool.

_____ (**IN CD FORMAT**; reference Section 3.8, “Submittal of Response”): Mailed or delivered manufacturer’s Price Lists, Ordering Instructions form, Savings / Price Reductions form(s), Certification of Drug Free Workplace Program, Manufacturer Price List Certificate, Manufacturer Certification of Authorized Dealer/Distributor, and Other Documents required to be mailed in the solicitation to the attention of:

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

IMPORTANT NOTE: Outer packaging shall clearly state the Bid Title, solicitation number, and Bid Opening Date and Time!