

AGREEMENT BETWEEN THE STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL
AND
ATLANTIC REPORTING, INC.

This **AGREEMENT** is entered into in the City of Tallahassee, Leon County, Florida by and between the State of Florida, the Office of the Attorney General (the OAG), an agency of the State of Florida with headquarters located in The Capitol, Tallahassee, Florida 32399-1050, and Atlantic Reporting, Inc. (the CONTRACTOR), located at 55 Southeast Osceola Street, Suite 201, Stuart, Florida 34994. Phone number 772-283-3221. Fax 772-283-0338.

The OAG, pursuant to §287.059(14), Florida Statutes, is authorized to contract with one or more court reporter services, on a circuit-wide basis, on behalf of all state agencies.

AND, THEREFORE, the parties mutually agree as follows:

ARTICLE 1. ENGAGEMENT OF THE CONTRACTOR

(a) The OAG agrees to engage the CONTRACTOR and the CONTRACTOR agrees to perform the court reporting services as the First (1st) ranked CONTRACTOR in the Nineteenth (19th) Circuit for all ELIGIBLE USERS as outlined in ITB 04-05-4, and all addendum which are incorporated by reference as Attachment 1, and as further set forth below.

(b) The term ELIGIBLE USERS includes state officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of state government, community and junior colleges, and multicounty special districts exclusive of those created by interlocal agreement or which have elected governing boards.

(c) ELIGIBLE USERS, on whose behalf the OAG is entering this contract must use rank order when selecting a court reporting firm. It is the intent of the state to place orders in rank order starting with number one. The state reserves the right to place orders with other court reporters if delivery time and availability of services cannot be met by any of the ranked CONTRACTOR(S) at the time of need.

(d) The CONTRACTOR agrees to provide court reporting services on both a scheduled and an unscheduled basis. Such services may be subcontracted to previously approved

subcontractors, as provided below.

(e) If during the contract period, the CONTRACTOR adds employees or associates who were not originally listed with a resume upon execution of this AGREEMENT (see Attachment 2), such new employees are not eligible to perform work under this contract until their individual resume is submitted by the CONTRACTOR and approved by the OAG. The same procedure will be used for the approval of subcontractors.

ARTICLE 2. SCOPE OF SERVICES

The CONTRACTOR agrees under the direct supervision of the ELIGIBLE USER to provide services under the conditions set forth in the attached ITB 04/05-4, which is incorporated by reference. (See Attachment 1.)

ARTICLE 3. TIME OF PERFORMANCE

(a) This AGREEMENT shall bind the parties upon its execution by their representatives and shall become effective upon execution. The AGREEMENT period is three years and will end on June 30, 2008.

(b) The CONTRACTOR will perform services, including recording the proceedings at the time, date, and location provided by the ELIGIBLE USER.

(c) Delivery of services, including transcripts of those proceedings ordered by the ELIGIBLE USER shall be achieved within the conditions set forth in Article 4.

(d) The State may renew this contract for two (2) additional (3) year periods after the initial contract period contingent upon satisfactory performance evaluations by the OAG and the availability of funds. Consideration at the time of renewal may change consistent with the provisions of the attached ITB 04/05-4; page 4, SCOPE , and page 8, Price Escalations. (See Attachment 1.)

ARTICLE 4. CONSIDERATION

(a) As compensation for the satisfactory performance of the reporting services, the CONTRACTOR shall receive payment according to the schedule outlined in Attachment 3, Proposal Sheet, Court Reporting Services and as further set forth below.

(b) The first hour of appearance fee will be paid in full regardless of time worked. Each hour after the first hour will be billed and compensated rounded to the nearest quarter hour.

(c) Appearance fees shall not be paid for travel time or any breaks (including meals breaks).

(d) Computer disk(s), video tapes (if applicable), and/or E-Mail transcripts shall be provided at no charge with transcript order.

(e) No excerpt search charge will be allowed.

(f) No per diem or mileage will be paid when the location of the proceeding to be recorded is 25 miles or less from the CONTRACTORS'S official headquarters, as indicated in the CONTRACTOR'S bid. Per diem and mileage will be paid in accordance with Section 112.061, Florida Statutes, when the CONTRACTOR must travel more than 25 miles within the judicial circuit from the CONTRACTOR'S official headquarters. In no event will the CONTRACTOR receive per diem or mileage for travel to a location outside the circuit where the CONTRACTOR'S official headquarters is located.

(g) Cancellation of appearance by a state agency or other eligible user without a minimum of four (4) hours notice prior to beginning time will result in the state agency or other eligible user paying the CONTRACTOR the first hour of appearance as listed on Page 13, Price Sheets, Depositions..

(h) In accordance with the provisions of Section 287.0582, Florida Statutes, if the terms of this AGREEMENT extend beyond the current fiscal year, "The State of Florida's performance and obligations to pay under this contract is contingent upon an annual appropriation by the Legislature".

ARTICLE 5. LIQUIDATED DAMAGES

In the event the CONTRACTOR fails to provide court reporter services under the terms of this contract, CONTRACTOR will pay liquidated damages to the state of \$500 per proceeding (e.g., hearing, deposition, trial, etc.). CONTRACTOR and OAG recognize the difficulty in ascertaining actual damages and agree that the CONTRACTOR shall pay this amount as liquidated damages and not as a penalty.

ARTICLE 6. DOCUMENTATION

(a) CONTRACTOR shall submit written invoices to the contracting ELIGIBLE USER for all fees or other compensation for services or expenses in detail sufficient for a proper pre-

audit and post-audit, including the nature of the services performed or expenses incurred, the identity of person(s) who performed the services or incurred the expenses, the amount of time expended in performing services, including the day on which the services were performed, and, if expenses were incurred, a detailed itemization of such. Invoices or bills must indicate:

- 1) Case name(s) and number(s).
- 2) Date(s) services rendered.
- 3) Time at which the proceeding commenced and adjourned, hourly fee, and amount due.
- 4) Description of services performed and costs incurred.
- 5) Number of original transcript pages and contract amount per page, number of copy pages and the contract amount per page, and the amount due for each.
- 6) The contract number assigned by the OAG.
- 7) The eligible user's name and employing attorney name.
- 8) All costs associated with each proceeding shall be delivered by the CONTRACTOR to the eligible user on a separate bill invoice.

(b) Charges for postage, supported by appropriate invoices, receipts, or affidavit, shall be billed and reimbursed at cost. No transcript shall be sent other than by regular United States mail unless directed by the contracting agency.

(c) The CONTRACTOR'S number, which must appear on all invoices, **is contract number is 051901.**

(d) The CONTRACTOR shall submit to the Office of the Attorney General on a quarterly basis, by the 15th day of the month following the end of the quarter, beginning October 15, 2005, a list of all jobs offered, accepted, or refused by CONTRACTOR, as well as the name of the ELIGIBLE USER offering the work. CONTRACTOR shall indicate if the work offered was scheduled or unscheduled. This report must be submitted on the form in Attachment 4.

(e) When an eligible user is a party to a proceeding but not the employing agency, the CONTRACTOR must provide the eligible user services at contract rates.

ARTICLE 7. E-PROCUREMENT

Prior to execution of this AGREEMENT, the CONTRACTOR shall be registered electronically with the State of Florida at MyFloridaMarketPlace.com. If the parties agree that

exigent circumstances exist that would prevent such registration from taking place prior to execution of the AGREEMENT, then the CONTRACTOR shall so register within twenty-one (21) days from the date of execution. The online registration can be completed at <http://dms.myflorida.com/dms/purchasing/myfloridamarketplace>.

If the CONTRACTOR needs assistance in registering, the CONTRACTOR may call 1-866-352-3776, fax @ 866-552-2992 or email: vendorhelp@myflorida.com. Failure of the CONTRACTOR to timely register may result in cancellation of this AGREEMENT.

ARTICLE 8. PUBLIC RECORDS

(a) Unless specifically exempted by law, all records made or received by CONTRACTOR in conjunction with this AGREEMENT are public records available for inspection by the public in accordance with the provisions of Section 119.07, F.S. Refusal of the CONTRACTOR to allow public access to such records shall constitute grounds for cancellation of this AGREEMENT as provided in Section 287.058, F.S.

(b) Since the services being contracted for in this AGREEMENT are intended to assist the ELIGIBLE USERS in ongoing or imminent litigation or adversarial administrative proceedings, certain records made or received by the CONTRACTOR reflecting a mental impression, conclusion, litigation strategy, or legal theory may be exempt from the disclosure requirements of Section 119.07, F.S. In order to assure that records subject to this exemption are not disclosed, the CONTRACTOR agrees to notify the ELIGIBLE USER immediately upon being requested to disclose any documents or records in CONTRACTOR'S possession which relate to the subject matter of this AGREEMENT. The CONTRACTOR shall not allow any inspection of or otherwise disclose any information found in said documents or records unless and until directed by the ELIGIBLE USER.

ARTICLE 9. TERMINATION OF AGREEMENT FOR CAUSE

(a) In the event this AGREEMENT is terminated for convenience or cause, all finished or unfinished documents, data, studies, correspondence, reports and other products prepared by or for the CONTRACTOR under this AGREEMENT shall be made available to and for the use of the ELIGIBLE USERS, who requested such products.

(b) Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to

the ELIGIBLE USERS for damages sustained by the ELIGIBLE USERS by virtue of any termination of this AGREEMENT by the CONTRACTOR. In the event this AGREEMENT is terminated, the CONTRACTOR shall be reimbursed for services satisfactorily completed subject to any such damages.

(c) If, in the judgement of the OAG, the CONTRACTOR for any reason fails to fulfill in a timely manner all obligations under this AGREEMENT, or if the CONTRACTOR should violate any of the covenants, agreements or stipulations of this AGREEMENT, the OAG shall have the right to terminate this AGREEMENT by giving at least five days written notice by registered mail to the CONTRACTOR of such termination and by specifying the effective date.

(d) The CONTRACTOR will be considered in non-compliance if (s)he fails to appear, fails to provide accurate transcripts, or fails to provide transcripts, or fails to provide transcripts in the agreed upon time frame in the price sheets. Non-compliance may result in any of the following:

- 1) Reduction in amount owed for appearance fee and transcript for specific proceeding by an amount up to 100%.
- 2) No additional work to CONTRACTOR until transcript is provided.
- 3) Termination of contract.

ARTICLE 10. ADMINISTRATION OF AGREEMENT

(a) The provisions of this AGREEMENT shall be administered by the Office of the Attorney General.

(b) Any dispute over performance or other terms of this AGREEMENT shall be governed by Florida Law and any action arising over any such dispute may only be maintained in Florida Courts.

ARTICLE 11. AMENDMENTS

Either party may, from time to time, request changes in the scope of services to be performed under this AGREEMENT. Such changes which are mutually agreed upon by all parties shall be incorporated in written amendments to this AGREEMENT.

ARTICLE 12. TRANSCRIPTS

Transcripts must be delivered by the CONTRACTOR to the contracting ELIGIBLE

USER within the time frames stated in the price sheet (Attachment 3). If an ELIGIBLE USER, for whatever reason, grants an extension of time to deliver the transcript, the extension must be authorized in writing, by the contracting attorney or designated position, and a copy of the authorization must be delivered to the CONTRACTOR.

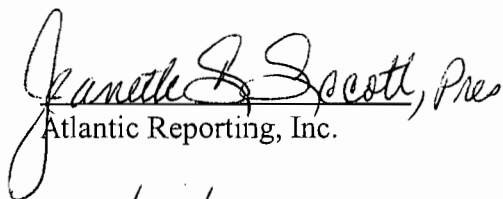
ARTICLE 13 APPLICABLE LAW AND VENUE

This AGREEMENT shall be governed by the laws of the state of Florida. Any and all litigation arising under the AGREEMENT shall be instituted in the appropriate court in Leon County, Florida.

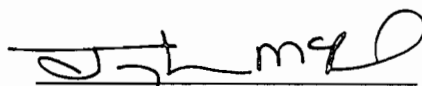
ARTICLE 14 AGREEMENT AS INCLUDING ENTIRE AGREEMENT

This instrument, with Attachment 1, Attachment 2 and Attachment 3, embodies the entire AGREEMENT of the parties. There are no provisions, terms, conditions, or obligations other than those contained herein. This AGREEMENT supersedes all previous communication, representation or agreements on this same subject verbal or written between the parties.

In witness whereof, Atlantic Reporting, Inc. and the Office of the Attorney General have executed this agreement.


Janette S. Scott, Pres
Atlantic Reporting, Inc.

5/16/05
DATE



Jerry McDaniel
Director of Administration

5/10/05
DATE

FID Number _____

ATTACHMENT 1

STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL
TALLAHASSEE, FL 32399

SOLICITATION LIST REGISTRATION

FEBRUARY 21, 2005

Along with this sheet you have also received solicitation documents for the following:

Solicitation #: OAG ITB 04/05-4
Bid Name: Court Reporting Services
Number of addenda as of the above date:
Date and Time Due: April 8, 2005, 2:30 pm

THE SOLICITATION DOCUMENTS YOU RECEIVED ARE SUBJECT TO CHANGE. TO ENSURE RECEIPT OF NOTICES OF CHANGES (ADDENDA) PLEASE ADD YOUR FIRM TO OUR BID LIST FOR THIS BID BY PROVIDING THE INFORMATION BELOW AND FAXING THIS SHEET TO OUR OFFICE AT 850/487-0168: Please print or type.

Company Name: ATLANTIC Reporting, INC.
Address: 55 SE Osceola St, Ste 201
City, State & Zip: Stuart, FL 34994
Attn: Jeanette S. Scott
Telephone #: 772-283-3221
Fax #: 772-283-0338
Signature: Jeanette S. Scott
E-mail Address: ATLREPT@Bellsouth.NET

FAILURE TO REGISTER YOUR FIRM'S INTEREST IN THIS SOLICITATION MAY CAUSE YOUR FIRM TO NOT RECEIVE INFORMATION NECESSARY FOR THE PREPARATION OF A RESPONSIVE SOLICITATION AND CONSIDERATION FOR AWARD OF A CONTRACT.

For additional information regarding this process, please contact the purchasing office @850/414-3300

OFFICE OF THE ATTORNEY GENERAL
SPECIAL INSTRUCTIONS TO BIDDERS
COURT REPORTING SERVICES

SCOPE:

In accordance with Subsection 287.059(14), Florida Statutes, the Office of the Attorney General, hereinafter known as the OAG, is authorized to bid for court reporting services on behalf of State Agencies and Eligible Users. Bids are hereby requested for court reporting services for State Agencies and Eligible Users in the twenty judicial circuits. Court Reporters may only submit a bid on a circuit(s) where the bidder has an official headquarters or in any circuit within twenty-five miles of their official headquarters. If a reporter bids on a circuit outside the circuit of their official headquarters, travel costs will not be paid in that circuit. Official headquarters are defined as an office/building, rented/leased/owned in the name of the bidding company with a conference room suitable for depositions. If a reporter bids on a circuit outside of the circuit of their official headquarters, the bidder must provide proof that they have access to a conference room on an as needed basis, in that circuit's largest city.

The contract period shall start on or about June 1, 2005 and terminate on June 30, 2007. The contract may be renewed for up to two (2) two (2) year periods, contingent upon satisfactory performance evaluations by the OAG and subject to the availability of funds.

If a contract is renewed, the fees may be increased once per renewal period, not to exceed 5% of the original fees. The fee increase procedure are delineated in the Price Escalation clause and shall be followed in all instances.

NON VERBAL INSTRUCTIONS:

Questions concerning conditions and specifications of this ITB and/or requests for changes to conditions and specifications must be in writing addressed to Larry Daugherty, General Services, PL-01 the Capitol, Tallahassee, Florida 32399-1050 (Fax (850) 487-0168) (Email larry_daugherty@oag.state.fl.us), and received no later than 5:00pm on **March 11, 2005**. Questions and/or requests sent via facsimile transmission are acceptable. The OAG's written response to written inquiries will be posted on the Florida Vendor Bid System at www.myflorida.com (Click on "Business", Click on "Doing Business with the State", under "Everything for Vendors and Customers:", click on "Vendor Bid System (VBS)", then click on "Search Advertisements") under this bid number. **It is the responsibility of all potential bidders to monitor this site for any changing information prior to submitting bids.**

ELIGIBLE USERS:

Eligible Users include state officers, departments, commissions, divisions, bureaus, councils, units of organization of the executive branch of State government, community and junior colleges, and multi county special districts, except those created by interlocal agreement or which have elected governing boards.

GOVERNING LAW:

The Contract is entered into in the State of Florida, and shall be construed, performed, and enforced in accordance with the laws and rules of the State of Florida. If any term or provision of the Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Any and all litigation arising under this Contract shall be instituted in the appropriate court in Leon County, Florida.

PRESERVATION OF REMEDIES:

No delay or omission to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Contract, shall impair any such right, power or remedy of either party; nor shall delay or omission be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

BILLS AND INVOICES:

Invoices or bills for services or expenses must include the following:

1. Case name(s) and number(s).
2. Date(s) services rendered.
3. Time at which the proceeding commenced and adjourned, hourly fee, and amount due.
4. Description of services performed and costs incurred.
5. Number of original transcript pages and contract amount per page, number of copy pages and contract amount per page, and the amount due for each.
6. The Contractor's contract number assigned by the Office of the Attorney General.
7. The employing agency's name and requesting attorney's name.

All costs associated with each proceeding shall be delivered by the Contractor to the Eligible User on a separate bill or invoice. **If subcontractors are used, they may not bill agencies directly.**

INDEPENDENT CAPACITY OF CONTRACTOR:

The parties agree that the Contractor, its officers, agents and employees, in performance of this Contract, shall act in the capacity of an independent Contractor and not as an officer, employee or agent of the State.

LIQUIDATED DAMAGES:

In the event the Contractor fails to provide services under the terms of this contract, Contractor will pay liquidated damages to the State of \$500 per proceeding (e.g., hearing, deposition, trial, etc.). The parties recognize the difficulty in ascertaining actual damages and agree that the Contractor shall pay this amount as liquidated damages and not as a penalty.

SPECIAL ACCOMMODATIONS:

Any person requiring special accommodation at the bid opening should contact Larry Daugherty at (850) 414-3300 or by using the Florida Relay Service which can be reached at 1-800-955-8771 (TDD) at least five (5) workdays prior to the bid opening.

BID OPENING DATE:

Bid packages will be opened at 2:30 PM, EDT, April 8, 2005, in Room 158D, Collins Building, 107 West Gaines Street, Tallahassee, Florida.

ADDRESS AND REQUIREMENTS FOR MAILING OF BID PACKAGES:

Bids must be submitted in two sealed envelopes, the face of each envelope must indicate the Invitation to Bid Number *OAG - 04/05-4*. One envelope will contain technical information and marked technical. The second envelope will contain price sheets and marked price sheet. This address is the only official address for ITB *OAG-04/05-4*:

Office of the Attorney General
Purchasing Office
107 West Gaines Street
Collins Building, Room 158D
Tallahassee, Florida 32301

Telefaxed bids will not be accepted.

PLACE:

Sealed bids must be *received* prior to 2:30 PM., EDT, on April 8, 2005. Bids received after the time and date will be returned to sender unopened.

POSTING OF BID TABULATIONS:

Bid tabulations, along with the Notice of Intent to Award, will be posted on the Department of Management Services Vendor Bid System on April 18, 2004, and will remain posted for a period of seventy-two (72) hours. Failure to file a protest within the time prescribed in Section 120.53 (5), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

PROTEST OF INVITATION TO BID:

Any person who files an action protesting a decision or intended decision pertaining to contracts administered by the OAG pursuant to Section 120.57(3), Florida Statutes, shall post with the OAG, at the time of filing the formal written protest, a bond payable to the OAG in an amount equal to 1 percent of the OAG's estimate of the total volume of the contract or \$5,000.00, whichever is less the bond shall be conditioned upon the payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding.

In lieu of a bond, the OAG may, in either case, accept a cashier's check or money order in the amount of the bond. **Failure to file a formal written protest accompanied by the required bond within the time prescribed under Florida Law, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.**

Any protest filed will be served upon the Clerk of Agency Proceedings, Sybil Powell, 107 West Gaines Street, Suite 428B, Tallahassee, Florida. The times of office operation for receipt of a notice of intent to protest and/or formal petition and bond are 8:00 AM to 4:30 PM local time.

STATEMENT ON PUBLIC ENTITY CRIMES:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

INSURANCE, WORKER'S COMPENSATION:

The Contractor shall take out and maintain during the life of the contract Worker's Compensation Insurance for all of his/her employees connected with the work performed under the contract. Such insurance shall comply fully with the Florida Worker's Compensation law. In case any class of employees are engaged in hazardous work under this contract at the site of performance is not protected under the Worker's Compensation statute, the Contractor shall provide adequate insurance, satisfactory to the OAG, for the protection of the employees not otherwise protected.

NOTICE TO CONTRACTORS:

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

CONTRACT AWARD:

Bids submitted must meet all mandatory requirements as determined by the OAG. Bids with the lowest cost will be given preference. Reference letters and judicial sanctions will be considered in contract award.

The first sealed envelope (marked technical documents) shall contain the applicable documents (not price sheets) outlined in the checklist paragraph, page 8. The price sheets will be in a second sealed envelope marked price sheets, price sheets for all circuits may be placed in this envelope.

The awarding of contracts will be determined based on bid price and compliance with all requirements.

Contracts (up to two) will be awarded for each judicial circuit. Separate price sheets must be submitted for each individual circuit. Unit price under Response Mandatory - Section I and II

must contain a price or will be ruled non-responsive.

The State, at its discretion, may reject otherwise successful bids if it is determined that the bidder failed to comply or perform at an acceptable level on past state, city or county Court Reporter contracts.

WAIVERS

The OAG may waive minor informalities or irregularities in the bids received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Bidders. Minor irregularities are defined as those that will not have an adverse effect on the OAG's interest and will not affect the price of the Bid by giving a Bidder an advantage or benefit not enjoyed by other Bidders.

MULTIPLE AWARDS:

Up to two awards will be made in each circuit. The successful bidders will be ranked according to cost from the lowest to the highest. Employing agencies must select Contractors according to rank order. The OAG does not have access to information necessary to monitor Agencies use of this contract. The State reserves the right to hire nonparticipating Contractors, if the two ranked Contractors are unable to provide the service requested by the Employing agencies.

PRICE ESCALATION:

A price escalation may be requested by the Contractor during the term of the contract for the initial contract period and any subsequent renewal period(s). The initial contract period of 36 months, may have a price increase request at the end of the second 12 month period. Each 24 month renewal period may have a price increase request at the end of the first 12 month period. **During any contract period the price increase will not exceed 5%.** The proposed increase(s) will be based on the Consumer Price Index for all Urban Consumers (CPI-U) published by the U.S. Bureau of Labor Statistics. Please follow the directions below.

$$\text{New CPI-U} / \text{Old CPI-U} = \text{Price Escalation Rate}$$

The last published Consumer Price Index for All Urban Consumers (CPI-U) prior to award of the contract will be the reference date for the beginning (old) CPI-U. The most recent published Consumer Price Index prior to the contract year to be priced will establish the reference data for the New CPI-U. Increases claimed by the Contractor in accordance with this formula must be documented by the Contractor to the OAGs' satisfaction at least 30 calendar days prior to the effective date of the increase.

Details on how this CPI-U has historically performed can be found at the Bureau of Labor Statistics web site: <http://www.stats.bls.gov/news.release/cpi.toc.htm>. Navigate to the "Table 2. Consumer Price Index for all Urban Consumers (CPI-U): Seasonally adjusted U.S. City Average", by expenditure category and commodity and service group.

The maximum price escalation will not exceed 5% per request.

ADDENDA:

All addenda must be signed and included with the bid(s) that are submitted to the State. The addenda will be posted on the Florida Vendor Bid System at www.myflorida.com (Click on "Business", Click on "Doing Business with the State", under "Everything for Vendors and Customers", click on "Vendor Bid System (VBS)", then click on "Search Advertisements") under this bid number.

TERMINATION:

This Contract may be canceled by the OAG in whole or in part at any time the interest of the OAG requires such termination. The OAG reserves the right to seek termination or cancellation of this contract in the event the Contractor shall be placed in either voluntary or involuntary bankruptcy. The OAG further reserves the right to terminate or cancel this contract in the event an assignment is made for the benefit of creditors. This Contract may be canceled by the Contractor only by mutual consent of both parties and a written request of this nature must be received by the OAG sixty (60) days prior to the proposed termination date.

If the OAG determines that the performance of the Contractor is not satisfactory, the OAG shall have the option of (a) immediately terminating the Contract, or (b) notifying the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time or the Contract will be terminated at the end of such time, or the OAG will take whatever action is deemed appropriate. Examples of unsatisfactory performance include but are not limited to; no-shows, late transcripts, incorrect/incomplete transcripts, using reporters with less than five years experience, and reporters who are not stenomask reporters using tape recorders.

If the OAG terminates the contract for reasons other than unsatisfactory performance of the Contractor, the OAG shall notify the Contractor of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Contract is to be terminated.

If the Contract is terminated before performance is completed, the Contractor shall be paid only for that work satisfactorily performed for which cost can be substantiated. All work in progress will become the property of the OAG and will be turned over promptly by the Contractor.

NOTE: Attachment F & G contain DMS Forms PUR 1000 and PUR 1001. These are standardized Forms that the OAG is required to include in all formal solicitations. Bidders are hereby advised that when the terms and conditions in PUR 1000 and PUR 1001 conflict with the conditions stated in the OAG's SPECIAL CONDITIONS or other attachments for this solicitation, the OAG's SPECIAL CONDITIONS and/or attachments will prevail.

CHECK LIST:

For your convenience, we offer the following check list of items that must be returned with your bid on or before April 8, 2005, at 2:30 PM, EDT.

1. Invitation to Bid (Bidder acknowledgment, (ITB # OAG-04/05-4)) filled out and signed and included **in the envelope marked Technical Documents.**
2. Price Sheet(s). (Attachment "A"). **In a separate envelope marked Price Sheets.**
3. Certificate of Drug Free Workplace, if applicable (Attachment E) (**Envelope marked Technical Documents**).
4. Addendum acknowledgment, signed, if any addenda to this ITB are issued **in envelope marked Technical Documents..**
5. Proof that each reporter proposed to work under this contract is a notary public **in envelope marked Technical Documents..**
6. Provide documentation/certification indicating that your firm has been engaged in continuous court reporting business including criminal/civil deposition or courtroom work for the last ten years. Examples of proof include but are not limited to: insurance policy, tax returns, lease(s) all in business name. Proof of work experience is letters from at least seven clients, judges, and boards attesting to the firms ability in these areas. **In the envelope marked Technical Documents..**
7. Provide reference letters from three Florida government agencies or seven clients, for whom you now, or have within the past two (2) years provided the type of services listed in this ITB. Each reference must specify the service provided by your business. Please provide an additional list of five clients that the OAG may call for references. **Please put these documents in the envelope marked Technical Documents.**
8. Provide a resume for each reporter who will perform services under the contract, verifying at least five years of prior court reporting experience as of July 1, 2005. If a contractor uses a reporter with less than five years of experience, this will result in the termination of the contractor's contract. **Please put the resumes in the envelope marked Technical Documents**
9. Provide proof of headquarters, in each circuit you bid, during the last ten years. If you were located in more than one location, please provide proof for each location. Rent or lease agreements, electric bills (in the company name), or phone bill (in the company name) will be acceptable. If you are bidding on a circuit that is within twenty-five (25) miles of your official headquarters, then provide a map showing your current location and the conference room that you will be using. **Place in Technical Documents' envelope**

10. Provide proof that each headquarters has a conference room suitable for deposition and a full time position to schedule work or provide a method that will insure that phone calls will be returned on the day, they are received or within four work hours. A lease or rental agreement with the physical layout of the space will be acceptable. If you bid on a circuit outside of your official headquarters, provide proof of a conference room in the largest city of that circuit. Proof for a circuit outside of the official headquarters, will consist of a lease or rental agreement with the physical layout of the space, or a written notarized agreement with another court reporting firm to use their conference room upon demand. **Place this information in the Technical Documents' envelope.**
11. Provide proof of an experienced real time reporter or a real time voice recognition reporter on staff or under contract with related software to sufficiently meet the requirement of ADA, and who shall obtain Certified Realtime Reporter Certification within 12 months of the bid award. For hearing impaired situations use of CART is acceptable. **Place this information in the Technical Documents' envelope.**
12. Provide proof of adequate maintenance and storage facilities for all files and reporter's records, notes, computer disks, and tapes in compliance with Florida Rules of Judicial Administration regarding time limits of retention. The proof should include but is not limited to type of cabinets, off site storage, computer back up systems, floor plans, pictures, leases of equipment, and proof of purchase of equipment. **Place this information in the Technical Documents's envelope.**

CALENDAR OF EVENTS:

The following calendar of events list important events and deadlines. If any of these dates or times are changed, an addendum will be posted on DMS website.

<u>DATES/TIMES</u>	<u>ACTIONS</u>
February 18, 2005	ITB posted.
March 11, 2005	Last date to receive written questions.
March 18, 2005	Post addendum, if any, and answer to written questions.
April 8, 2005 2:30 PM, EDT	Bid opening. YOU DO NOT HAVE TO BE PRESENT AT BID OPENING
April 18, 2005	Posting of Bid Results and Notice of Intent to Award.

ATTACHMENT "A"
PRICE SHEETS COURT REPORTING SERVICES

BIDDER _____ CIRCUIT _____

RESPONSE MANDATORY. Points are awarded based on bid prices.

I. SECTION 1

<u>DEPOSITIONS</u>	<u>State</u>	<u>Unit Price</u>	<u>Weight</u>	<u>Only</u>
Appearance Fee				
First hour		_____		
Each hour after first		_____		

COURT HEARINGS/TRIALS (if you do not have a full day or 1/2 day rate, then put n/a in each blank, you will be held to the per hour rate above)

<u>DOAH HEARINGS</u>				
Appearance Fee				
Full day (8:00am - 5:30pm)		_____		
Half (1/2) day (8:00am -12:00pm, 1:00pm - 5:00pm)		_____		
Overtime for full and 1/2 day per hour		_____		

BOARD AND PUBLIC MEETINGS (if you do not have a full day or 1/2 day rate, then put n/a in each blank, you will be held to the per hour above)

Appearance Fee				
rate				
Full day (8:00am - 5:00pm)		_____		
1/2 day (8:00am -12:00pm, 1:00pm - 5:00pm)		_____		
Overtime for full and 1/2 day per hour		_____		

REALTIME (this is not to be included or added to any of the above rates)

Appearance Fee				
Each hour		_____		
TOTAL			.25	_____

ATTACHMENT "A"
PRICE SHEETS COURT REPORTING SERVICES

II. SECTION 2

<u>State</u>		<u>Weight</u>	<u>Only</u>
TRANSCRIPTS			
Transcripts Fee			
Original and one copy			
10 working day delivery	_____ per page	.60	_____
(State holidays and weekends excluded)			
24 hour delivery	_____ per page	.05	_____
72 hour delivery	_____ per page	.03	_____
3-5 working day delivery	_____ per page	.06	_____
(State holidays and weekends excluded)			
Additional copies	_____ per page	.01	_____

ATTACHMENT "A"
PRICE SHEETS COURT REPORTING SERVICES
CONTINUED

III. SECTION 3

Response optional - Not Subject to Weight Factors

- | | |
|-----------------------------|----------------|
| a. Exhibits | _____ per page |
| b. Telephone reporting | _____ per hour |
| c. Key Word Indexing | _____ per word |
| d. Key Word Indexing | _____ per page |
| e. Transcription from tapes | _____ per hour |
| f. Transcription from tapes | _____ per page |
| g. Video services | _____ per hour |

The State reserves the right to use these services at prices bid or not use them and contract with another reporter.

The Price Sheets must be signed by an authorized representative of your firm. Otherwise your bid will not be considered responsive. To be considered responsive, only one price sheet per judicial circuit per bidder will be accepted.

Date: _____

Signature of Authorized Representative: _____

Please enter Bidder's Official Headquarters address in the space below for the Judicial Circuit bid.

ATTACHMENT "B"
SPECIFICATIONS AND REQUIREMENTS
COURT REPORTING SERVICES

RULES AND FEES APPLICABLE TO ALL TWENTY CIRCUITS:

- A. Cancellation of appearance by a State Agency or Eligible User without a minimum of four (4) hours notice, prior to scheduled commencement time will result in the agency paying the Contractor the first hour appearance fee only.
- B. For all services, the first hour appearance fee shall be paid in full regardless of time worked. Each hour after the first shall be billed and compensated rounded to the nearest quarter hour. The same is true for ½ day appearances.
- C. Appearance fees shall not include travel time or breaks (including meal breaks).
- D. No per diem or mileage shall be paid when the appearance is located within twenty-five (25) miles of the Contractor's Official Circuit Headquarters. Outside of that distance per diem and mileage shall be compensated in accordance with Section 112.061, Florida Statutes. No per diem or mileage will be paid, if work is performed in a circuit outside of the bidder's official headquarters.
- E. All charges for postage, supported by appropriate invoices, receipts, or affidavit, shall be billed and reimbursed at cost. Transcripts will be sent through services that have tracking systems. Express services will only be used if requested by the Eligible User.
- F. If an Eligible User requests transcripts on a computer disk(s), the disk(s) will be provided free of charge, if submitted with the invoice for transcript costs. The eligible user may request that the transcript be sent via Email in XML format, this will be provided before an invoice is received. This provision may be modified by the Agency to allow for new computer innovations.
- G. No excerpt search charges will be allowed.

1. GENERAL INFORMATION:

Contractor(s) shall provide court reporting services for State Agencies and Eligible Users in each of the twenty judicial circuits on an open-end basis. No guarantees as to the number of hours or transcript pages are expressed or implied. All equipment and supplies shall be provided by the Contractor and shall be included in the base rate per bid. Court reporting services shall be provided on both a scheduled and an unscheduled basis. Such services may be subcontracted to approved subcontractor(s), as provided below.

ATTACHMENT "B"
(continued)
SPECIFICATIONS AND REQUIREMENTS
COURT REPORTING SERVICES

The Contractor must accept 90% of the scheduled work offered. If the Contractor does not comply with the 90% provision, their contract will be terminated. Each Contractor must log in each job, and provide the contract manager, Larry Daugherty, with a copy of that log on a monthly basis.

Scheduled services are those where notice to the Contractor is provided at least five (5) working days prior to the proceeding. Subcontractors may not subcontract any work.

Contractor must be familiar with and adhere to the following document, which are excerpted and included as "Attachments", and which further define the requirements for the services required herein:

- **Florida Rules of Judicial Administration, Rule 2.070
(Attachment C)
- **Judicial Circuits (Attachment D)
- **Certificate of Drug Free Workplace (Attachment E)

If during the contract period, the Contractor adds employees or associates who were not originally listed and a resume provided at the time of the ITB, that reporter is not eligible for court reporting work under the contract until a resume is received and approved by the Office of the Attorney General. The same procedure will be used for the approval of subcontractors.

2. QUALIFICATIONS OF CONTRACTOR:

Bids will only be considered from firms normally engaged in providing and performing the services specified. In each judicial circuit for which a bid is made, bidders must have in place the organization, facilities, equipment and trained personnel to ensure prompt and efficient service. The State reserves the sole right to determine a bidder's ability to perform in accordance with the specifications, terms and conditions of this ITB. Awards will be made by the State when evidence of ability to perform is deemed satisfactory. Bids may be rejected when either evidence submitted, or a subsequent investigation or an evaluation, indicates that the bidder is unable to perform or failed to comply with provisions of past statewide Court Reporter contracts.

ATTACHMENT "B"

(continued)

SPECIFICATIONS AND REQUIREMENTS
COURT REPORTING SERVICES

3. APPEARANCES:

Appearances will be scheduled and unscheduled, and offered by State Agencies or Eligible User to the successful bidder, in award rank order.

4. CERTIFIED TRANSCRIPTS:

Certified transcripts must meet all page standards defined in Rule 2.070 Florida Rules of Judicial Administration. In the event that the OAG finds non-compliance by the Contractor with these standards, the State will debit the entire cost of non-compliant transcripts from future payments. Repeated non-compliance will be cause for termination.

Information regarding appearances and witnesses must be combined on as few pages as possible and not on separate pages.

Reporter must make every effort to reduce and minimize the number of pages prepared within the boundaries of the Florida Statutes and the Florida Rules of Judicial Administration.

Certified transcripts must be bound with a cover and not affixed with staples.

5. CONTRACTING PRINCIPLES:

- a. A Court Reporter shall disclose to all parties present the existence of any direct or indirect contracting relationship with any attorney or party to the proceeding.

- b. A Court Reporter shall not, in act or by appearance, indicate that the court reporter is participating as part of an advocacy support team for any one of the parties.

- c. A Court Reporter shall always comply with federal, state, and local laws and rules that govern the conduct of court reporters (such as those that deal with certification, confidentiality, custody of transcripts, and contracting).

ATTACHMENT "B"

(continued)

SPECIFICATIONS AND REQUIREMENTS

COURT REPORTING SERVICES

6. NON-COMPLIANCE:

The Contractor will be considered in non-compliance if (s)he fails to appear, fails to provide accurate transcripts, fails to accept 90% of scheduled services requested, or fails to provide transcripts in the agreed upon time frame. Non-compliance may result in any or all of the following:

- a. Reduction in amount owed for appearance fee and transcripts for specific proceeding by an amount up to 100%. This will be determined by the OAG and the hiring agency.
- b. No additional work offered to the Contractor until transcript(s) are provided to the satisfaction of the hiring agency.
- c. Termination of contract which will be determined by the OAG.

Accurate transcripts are defined as those with not more than an average of one error per ten pages, excluding proper nouns.

7. GENERAL CONDITIONS:

- a. When a Contractor is offered a scheduled job, with at least five working days notice, the Contractor shall have twenty-four hours to accept or decline the job. An unscheduled job is one with less than five working days notice. For unscheduled work with three or four working days notice, the Contractor shall have eight hours to accept or decline the work. For unscheduled work with two working days or less notice, the Contractor shall have four hours to accept or decline the work, if the four hours extend beyond 5:00pm EST, the Contractor must respond by 5:00pm EST. For unscheduled work with twenty-four hours notice, the Contractor shall have up to two hours to accept or decline the work, but cannot extend the answer period beyond 5:00pm EST.
- b. If the Contractors in ranking order are unable to accept the work, the employing agencies may then use a non-contract reporter.

ATTACHMENT "B"
(continued)
SPECIFICATIONS AND REQUIREMENTS
COURT REPORTING SERVICES

- c. Only the employing agency may cancel an appearance. Court Reporters may not unilaterally cancel an appearance, even if the reporter is unable to confirm or verify a scheduled job. Proper notice should be given to the employing agency anytime the reporter is unable to confirm or verify a scheduled job.
- d. The Contractor must provide services to employing agencies for all work offered including nights, weekends, and holidays at the rates bid. Each Contractor must accept 90% of scheduled work offered, or their contract will be terminated.
- e. The Contractor must provide proof that every reporter proposed to work under this contract is a notary public.
- f. Any break, while providing service, does not restart calculations for appearance fees. The first hour back from any break is not a first hour for billing purposes. If an employing agency schedules multiple jobs at the same location for one day, the start of each job does not constitute a first hour. However, if there is a break between jobs of one hour or more, then the next hour is a first hour.
- g. When an eligible user is a party to a proceeding(s), but not the employing agency, the Contractor must provide the Eligible User services at contract rates for that circuit.
- h. When twenty-four or seventy-two hour expedited delivery is requested, the employing agency must have possession of the transcripts before the expedited time period expires.
- i. Tape recording (unless a stenomask) is prohibited as a primary source of reporting. If an audio tape, for back up purposes, is used by the reporter, then a copy of that tape may be requested at no charge with a transcript order. Stenomask reporting is allowed under this contract.
- j. If the Supreme Court acts under the mandate of Section 29.025, Florida Statutes, during the period of this contract, the State reserves the right to modify or rewrite this contract under the criteria set by the Supreme Court. Section 29.025, Florida Statutes mandates that the Supreme Court shall establish minimum standards and procedures for qualifications, certifications, discipline, and training for Court Reporters.
- k. The Contractor must report immediately to a hiring agency, if a reporter is unable or unwilling to provide transcripts due to an illness, accident or employment problems. The Contractor is liable for all transcripts, notes, tapes and exhibits. If the Contractor is unable to produce the transcripts, then the Contractor will pay for all costs to make the

agency whole. This includes travel cost, overnight accommodations, witness fees, transcripts and any other costs associated with reproducing the record.

ATTACHMENT "C"

FLORIDA RULES OF JUDICIAL ADMINISTRATION, RULE 2.070

Rule 2.070. Court Reporting

- (e) Transcripts. Transcripts of all judicial proceedings, including depositions, shall be uniform in and for all courts throughout the state. The form size, spacing, and method of printing transcripts are as follows:
- (1) All proceedings shall be printed on paper 8½ inches by 11 inches in size, and bound on the left
 - (2) There shall be no fewer than 25 printed lines per page with all lines numbered 1 through 25, respectively, and with no more than a double space between lines.
 - (3) Font size or print shall be 9 or 10 pica, 12-point courier, or 12-point Times New Roman print with no less than 56 characters per line on questions and answers unless the text of the speaker ends short of marginal requirements.
 - (4) Colloquy material shall begin on the same line following the identification of the speaker, with no more than 2 spaces between the identification of the speaker and the commencement of the colloquy. The identification of the speaker in colloquy shall begin no more than 10 spaces from the left margin, and carry-over colloquy shall be indented no more than 5 spaces from the left margin.
 - (5) Each question and answer shall begin on a separate line no more than 5 spaces from the left margin with no more than 5 spaces from the "Q" or "A" to the text. Carry-over questions and answer lines shall be brought to the left margin.
 - (6) Quoted material shall begin no more than 10 spaces from the left margin with carry-over lines beginning no more than 10 spaces from the left margin.
 - (7) Indentations of no more than 10 spaces may be used for paragraphs, and all spaces on a line as herein provided shall be used unless the text of the speaker ends short of marginal requirements.
 - (8) One-line parenthetical may begin at any indentation. Parenthetical exceeding 1 line shall begin no more than 10 spaces from the left margin, with carry-over lines being returned to the left margin.
 - (9) Individual volumes of a transcript, including depositions, shall be no more than 200 pages in length, inclusive of the index.
 - (10) Deviation from these standards shall not constitute grounds for limiting use of transcripts in the trial or appellate courts.

(f) **Reporter as Officer of Court.** A court reporter is an officer of the court for all purposes while acting as a reporter in a judicial proceeding or discovery proceeding. The court reporter shall comply with all rules and statutes governing the proceeding that are applicable to court reporters.

ATTACHMENT "D"

JUDICIAL CIRCUITS

- | | | |
|---|---|---|
| 1. First Circuit
Escambia
Okaloosa
Santa Rosa
Walton | 7. Seventh Circuit
Flagler
Putnam
St. Johns
Volusia | 14. Fourteenth Circuit
Bay
Calhoun
Gulf
Holmes
Jackson
Washington |
| 2. Second Circuit
Franklin
Gadsden
Jefferson
Leon
Liberty
Wakulla | 8. Eighth Circuit
Alachua
Baker
Bradford
Gilchrist
Levy
Union | 15. Fifteenth Circuit
Palm Beach |
| 3. Third Circuit
Columbia
Dixie
Hamilton
Lafayette
Madison
Suwannee
Taylor | 9. Ninth Circuit
Orange
Osceola | 16. Sixteenth Circuit
Monroe |
| 4. Fourth Circuit
Duval
Clay
Nassau | 10. Tenth Circuit
Hardee
Highlands
Polk | 17. Seventeenth Circuit
Broward |
| 5. Fifth Circuit
Citrus
Hernando
Lake
Marion
Sumter | 11. Eleventh Circuit
Dade | 18. Eighteenth Circuit
Brevard
Seminole |
| 6. Sixth
Pasco
Pinellas | 12. Twelfth Circuit
DeSoto
Manatee
Sarasota | 19. Nineteenth Circuit
Indian River
Martin
Okeechobee
St. Lucie |
| | 13. Thirteenth Circuit
Hillsborough | 20. Twentieth Circuit
Charlotte
Collier
Glades
Hendry
Lee |

ATTACHMENT "E"
CERTIFICATE OF DRUG FREE WORKPLACE

Preference shall be given to businesses with drug-free workplace programs. Whenever two (2) or more bids/RFP's which are equal with respect to price, quality and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid/RFP received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids/RFP's will be followed if none of the tied vendors have a drug-free workplace program.

In order to have a drug-free workplace program, a business shall:

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

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Vendor's Signature

ATTACHMENT "F"

State of Florida
PUR 1000
General Contract Conditions

Contents

1. Definitions.
2. Purchase Orders.
3. Product Version.
4. Price Changes Applicable only to Term Contracts.
5. Additional Quantities.
6. Packaging.
7. Manufacturer's Name and Approved Equivalents.
8. Inspection at Contractor's Site.
9. Safety Standards.
10. Americans with Disabilities Act.
11. Literature.
12. Transportation and Delivery.
13. Installation.
14. Risk of Loss.
15. Transaction Fee.
16. Invoicing and Payment.
17. Taxes.
18. Governmental Restrictions.
19. Lobbying and Integrity.
20. Indemnification.
21. Limitation of Liability.
22. Suspension of Work.
23. Termination for Convenience.
24. Termination for Cause.
25. Force Majeure, Notice of Delay, and No Damages for Delay.
26. Scope Changes.
27. Renewal.
28. Advertising.
29. Assignment.
30. Dispute Resolution.
31. Employees, Subcontractors, and Agents.
32. Security and Confidentiality.
33. Independent Contractor Status of Contractor.
34. Insurance Requirements.
35. Warranty of Authority.
36. Warranty of Ability to Perform.
37. Notices.
38. Leases and Installment Purchases.
39. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).
40. Products Available from the Blind or Other Handicapped.

41. Modification of Terms.
42. Cooperative Purchasing.
43. Waiver.
44. Annual Appropriations.
45. Execution in Counterparts.
46. Severability.

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 that will order products directly from the Contractor under the Contract.

(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, or other authorized means).

2. **Purchase Orders.** A 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.

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. **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.

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.

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.

7. 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 Customer'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 Customer shall determine in its sole discretion whether a product is acceptable as an equivalent.

8. 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.

9. 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.

10. 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.

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

12. 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.

13. 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 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.

14. 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.

15. 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 reprourement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES SHALL BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

16. Invoicing and Payment. Invoices shall contain the Contract number, purchase order number, 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.

17. 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 on a purchase order or other special contract condition.

18. 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.

19. 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://dhis.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.

20. 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.

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

22. Suspension of Work. The Customer may in its sole discretion suspend any or all activities under the Contract, 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. Suspension of work shall not entitle the Contractor to any additional compensation.

23. 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.

24. 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.

25. 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.

26. Scope 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.

27. 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.

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.

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; provided, the Contractor assigns to the State any and all claims it has with respect to the Contract under the antitrust laws of the United States and the State. 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.

30. 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 ten (10) 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.

31. 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. 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.

32. Security and Confidentiality. The Contractor shall comply fully with all security procedures of the State 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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>.

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

41. 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.

42. 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.

43. 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.

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

45. 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.

46. 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.

ATTACHMENT "G"

State of Florida PUR 1001 General Instructions to Respondents

Contents

1. Definitions.
2. General Instructions.
3. Electronic Submission of Responses.
4. Terms and Conditions.
5. Questions.
6. Conflict of Interest.
7. Convicted Vendors.
8. Discriminatory Vendors.
9. Respondent's Representation and Authorization.
10. Performance Qualifications.
11. Public Opening.
12. Electronic Posting of Notice of Intended Award.
13. Firm Response.
14. Clarifications/Revisions.
15. Minor Irregularities/Right to Reject.
16. Contract Formation.
17. Contract Overlap.
18. Public Records.
19. Protests.

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

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.

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,
- 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.

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.

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.

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.

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.

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.
- To the best of the knowledge of the person signing the response, the respondent 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.

10. 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. 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.

11. 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. 119.07(6)(m), 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).

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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."



OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

Reply to:

Office of the Attorney General
General Services Division
(850)414-3416; SunCom 994-3416

CHARLIE CRIST
Attorney General
State of Florida

March 18, 2005

Addendum #1
ITB 04/05-4
Court Reporting Services

Dear Sir or Madam:

ITB 04/05-4 has been changed as indicated herein:

PRICE SHEETS: Page 14, TRANSCRIPTS, 3-5 working day delivery has been changed to 5 day delivery.

PRICE SHEETS: Page 13 and 14, The columns headed Weight and Only are for the OAG use only, please do not enter any information into that space.

PRICE SHEETS: Page 15. Add h. Video Conferencing per hour. Please submit a bid if you choose

CONTRACT AWARD: Page 7 & 8, the term price and cost are the same in reference to this section.

ATTACHMENT "B": Page 16, B, The last sentence The same is true for ½ day appearance is deleted.

ATTACHMENT "B": Page 20, C, Proper notice is defined as two business days. The reporter will call the Agency and ask for a fax number and the notification will be made in writing.

PRICE SHEETS: Page 15, add i. Weekends and holidays per hour and ½ day for Court Hearing/Trials/DOAH/Board and public meetings. Please submit a bid if you choose.

CHECK LIST: Page 10, Number 1, Invitation to Bid (Bidder acknowledgment form is deleted. The form has been discontinued .

SCOPE: Page 4, the contract period has been changed to "start on or about June 1, 2005 and terminate on June 30, 2008. The contract may be renewed for up to two (2) three year periods".

SCOPE: Page 4, add the following language. **VENDOR REGISTRATION:**
Any Bidder that is subject to an award under this ITB must be registered with the State of Florida at MyFloridaMarketPlace.com. On-line registration can be completed at:

<https://vendor.myfloridamarketplace.com/>

Bidders requiring registration assistance may call the Vendor Help Desk at 1-866-352-3776 or contact the OAG purchasing office at 850-414-3417.

MyFloridaMarketPlace TRANSACTION FEE:

This competitive solicitation is subject to the MyFloridaMarketPlace Transaction Fee, pursuant to Rule 60A-1.031, Florida Administrative Code, which can be accessed at:

<http://marketplace.myflorida.com/related/Rule%2060A-1.031.pdf>

A copy of the transactions fee form (PUR 3776) can be accessed at:

<http://marketplace.myflorida.com/related/PUR%203776.pdf>

Please sign this addendum and return with your bid package.

Sincerely

Steven A. Copeland
Purchasing Director

Atlantic Reporting Inc
Janette

Company Name
Janette L Scott

Signature



OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

Reply to:

Office of the Attorney General
General Services Division
(850)414-3416; SunCom 994-3416

CHARLIE CRIST
Attorney General
State of Florida

March 30, 2005

Addendum #2
ITB 04/05-4
Court Reporting Services

Dear Sir or Madam:

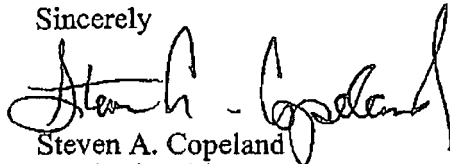
ITB 04/05-4 has been changed as indicated herein:

CHECK LIST: Page 10, Number 6, delete next to last sentence. "Proof of work experience is letters from at least seven clients, judges, and boards attesting to firms ability in these areas.

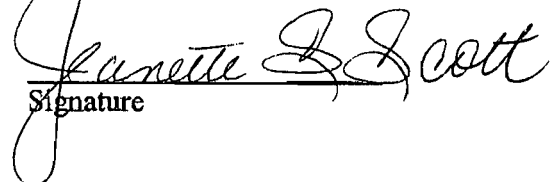
CHECK LIST: Page 10, Number 7, In the first sentence change seven clients to five clients.

Please sign this addendum and return with your bid package.

Sincerely


Steven A. Copeland
Purchasing Director


Company Name


Signature



OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

Reply to:

Office of the Attorney General
General Services Division
(850)414-3416; SunCom 994-3416

CHARLIE CRIST
Attorney General
State of Florida

March 31, 2005

Addendum #3
ITB 04/05-4
Court Reporting Services

Dear Sir or Madam:

ITB 04/05-4 has been changed as indicated herein:

CHECK LIST: Page 10, Number 6, in the first sentence "Provide documentation/certification indicating that your firm has been engaged in continuous court reporting business including criminal/civil deposition or courtroom work for the last ten years." Has been changed to the last five years.

Please sign this addendum and return with your bid package.

Sincerely


Steven A. Copeland
Purchasing Director


Company Name


Signature

ATTACHMENT 2

Court Reporters approved to work for Atlantic Reporting, Inc.

1. Kathleen M. Ames
2. Antoinette Rozzo
3. Jeanette S. Scott
4. Jo Anne M. Norris
5. Margaret F. Riddle
6. Nancy R. McManus
7. Cherie L. Sokol
8. Patrice C. Hensley
9. William Olensky
10. Laura Lee Lassise
11. Marcella R. Samson
12. Deborah Carmela Dew
13. Kathy Duncombe
14. Robin J.P. Riley

**ATTACHMENT 3
Prices**

1. **Depositions**
 Appearance fee:
 First hour \$50.00 per hour
 Each hour after first \$40.00 per hour

2. **Court Hearings/Trials, DOAH Hearings**
 Full day (8:00am - 5:30pm) \$360.00 full day
 Half (½) day
 (8:00am - 12:00pm, 1:00pm - 5:00pm) \$180.00 half day
 Overtime for full and half day \$67.50 per hour

3. **Board and Public Meetings**
 Full day (8:00am - 5:30pm) \$400.00 full day
 Half (½) day
 (8:00am - 12:00pm, 1:00pm - 5:00pm) \$200.00 half day
 Overtime for full and half day \$75.00 per hour

4. **Realtime**
 Appearance Fee \$95.00 ^{PER}~~first~~ hour JSS

5. **Transcript fee:**
 Original & one copy
 10 working days delivery \$4.00 per page
 (State holidays and weekends excluded)

6. 24 hours delivery \$8.00 per page

7. 72 hours delivery \$6.00 per page

8. 5 working day delivery \$5.00 per page
 (State holidays and weekends excluded)

9. Additional copies \$2.50 per page

10. Exhibits \$0.40 per page

11. Telephone reporting \$50.00 per hour

ATTACHMENT 3
Prices
(continued)

12.	Key word indexing	No Bid
13.	Key word indexing	\$0.50 per page
14.	Transcription from tapes	\$50.00 per hour
15.	Transcription from tapes	\$4.00 per page
16.	Video Services	No Bid
17.	Weekends and holidays per hour	\$100 per hour
18.	Weekends and Holidays one-half day for Court hearings, trials and DOAH	270 1/2 day
19.	Weekends and Holidays for Board meetings and Public Meetings one half day	300.00 1/2day

JSS

**ATTACHMENT 4
QUARTERLY REPORT**

Company Name _____
Quarter date _____

	Date of call	Date of job	Agency	Case name job description	Accepted	Not Accepted
1.						
2.						
3.						
4.						
5.						
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17.						