

**THE FLORIDA STATE COURTS SYSTEM
OFFICE OF THE STATE COURTS ADMINISTRATOR
INFORMATION SYSTEMS SERVICES**

Risk Based Authentication Solution

**INVITATION TO BID (ITB)
ITB # 09-001-JM**

Submission deadline: March 24, 2009 @ 6:00 pm (EDT)

1. PURPOSE

The purpose of this Invitation to Bid (ITB) is to solicit proposals in accordance with established purchasing procedures in a competitive process for a Risk Based Authentication solution for the Florida State Courts System.

2. INQUIRIES

Any questions or requests for additional information regarding this ITB shall be in writing, directed to the person designated below. Email questions are acceptable no later than noon EDT on March 18, 2009. All questions and responses will be posted on http://www.flcourts.org/gen_public/purchasing/index.shtml, no later than March 20, 2009, by 6:00 p.m. EDT.

Name: Jim Mondragon Telephone: 850-414-7824
Title: Information Security Manager FAX: 850-410-1521
E-mail: mondragonj@flcourts.org

3. ADDENDUM

Any clarification or additional information that may substantially affect the outcome of this ITB will be provided in the form of a written addendum. If necessary, clarifications or additional information shall be issued by the Office of the State Courts Administrator (OSCA). Unless issued in writing by the OSCA, nothing shall be binding upon this ITB. All addendums will be posted on the State Court website @ http://www.flcourts.org/gen_public/purchasing/index.shtml

4. SCHEDULE OF EVENTS

Listed below are the dates and times by which stated actions must be taken or completed. If the OSCA determines that it is necessary to change any of these dates and times, it will issue an Addendum to this Proposal.

Advertisement of ITB	<u>March 13, 2009</u>
Deadline for Receipt of ITB	<u>March 24, 2009 – at 6:00 p.m. EDT</u>
Posting of Intent to Award	<u>March 26, 2009 – at 4:00 p.m. EDT</u>

5. SCOPE OF WORK

A solution is required in support of the mandatory authentication process that is part of the Florida State Courts System's Judicial Inquiry System (JIS). The JIS provides critical Florida Department of Law Enforcement (FDLE) information (i.e. NCIC/FCIC background checks, etc.) for judges and other users statewide. The Office of the State Courts Administrator was recently advised by FDLE that the Federal Bureau of Investigation (FBI) is requiring "advanced/strong" authentication for any entity that accesses this confidential information.

The Office of the State Courts Administrator is aware that there are multiple solutions for advanced/strong authentication as defined by the FBI/FDLE/CJIS. The Florida State Courts System has chosen to move forward with the implementation of a 'Risk Based Authentication' solution, as defined below, in order to comply with the new FBI/CJIS standard.

- ✓ Risk Based Authentication: Includes a software token element comprised of a number of factors, such as network information, user information, positive device identification (e.g. device forensics, user pattern analysis and user binding), user profiling, and high-risk challenge/response questions.

6. SPECIFIC BID REQUIREMENTS

- ✓ Must support 7000 users
- ✓ Must include 2nd and 3rd year recurring cost.
- ✓ Must include cost to add additional users.
- ✓ Bid must include service and/or implementation costs.
- ✓ The Florida State Courts System is a Microsoft Windows environment; users must authenticate to the JIS via a web application.

7. COMPENSATION

The Florida State Courts System has a maximum annual budget of \$50,000 available for this project. This amount will provide for the first year cost of the solution, plus the implementation cost and/or professional services. Upon full implementation and acceptance, the total annual cost will be paid following receipt of an invoice.

8. MINIMUM QUALIFICATIONS

- a. Vendors must meet the following minimum qualifications:
 1. The vendor must be or become registered with My Florida Market Place (MFMP) e-Procurement system.
 2. The vendor shall use only skilled, competent, support personnel having a minimum experience of 5 years as an Information Security Specialist.
 3. The vendor shall have experience implementing strong/advanced authentication, preferably a Risk Based Authentication solution.

9. RESTRICTIONS ON COMMUNICATIONS WITH COURT PERSONNEL

Vendors shall not communicate with any Florida State Courts System employee concerning this ITB, except for the contact persons identified in Section 3. Violation of this requirement may result in the rejection of the submitted proposal.

10. COST OF PROPOSAL PREPARATION

All costs associated with the development and submission of a proposal, vendor question(s), and transmittal letter are fully the responsibility of the Vendor.

11. SUB-CONTRACTING

A vendor who elects to sub-contract any part of this project will be fully accountable for sub-vendor's responsibilities and deliverables. Vendor will define with specificity the sub-vendor's scope of work.

12. INDEPENDENT PRICE DETERMINATION

A Vendor shall not collude, consult, communicate, or agree with any other Vendor regarding this ITB as to any matter relating to the Vendor's cost proposal.

13. SUBMITTAL REQUIREMENTS

- a. Proposals shall be typed on white letter-size paper and every item of the ITB that needs response should be addressed in a clear, concise manner
- b. One (1) original, marked "ORIGINAL", and three (3) copies, each marked "COPY", are required of each proposal. Proposals shall be submitted as designated herein by the advertised deadline in a sealed package clearly marked on the outside of the package:

"ITB # 09-001-JM - Risk Based Authentication Solution

- c. Any proposal received after the advertised deadline will not be considered for award.
- d. Proposals must be received no later than 6:00 PM (EDT), March 24, 2009 at the following location:

Mr. Tom Long
General Services Manager
Office of the State Court Administrator
Supreme Court Bldg
500 South Duval Street
Tallahassee, Florida 32399-1900

14. PROPOSAL CONTENT

Proposals shall not exceed ten (10) pages in length, exclusive of required forms or attachments, and contain, at a minimum, the following information:

- a. Proposer Information:

1. Vendor's official business name, address (both physical and mailing), telephone and fax numbers; type of business such as sole proprietorship, partnership, or corporation, including the State of incorporation;
 2. Length of time in business;
 3. Location(s) of business operations;
 4. Firm's qualifications;
- b. Statements - Include a statement indicating an understanding of the project and the requirements thereof.
 - c. Quality Assurance - Include the firm's statement of commitment to quality assurance.
 - d. Conflict Disclosure – Include the name(s) of any employee or officer of the Florida State Courts System who owns, directly or indirectly, an interest of 5% or more in the firm. Also, include the name(s) of any employee, officer, or agent of the firm that has any conflict of interest associated with this project.
 - e. References - Include the name, address, and telephone number of at least three (3) clients for whom similar services are performed.
 - f. Price Structure – The vendor's solution must reflect the following: 1) cost of the solution for year one; 2) cost for the implementation and/or professional services; 3) recurring cost for 2nd and 3rd year; and, 4) the cost to add users. The Court reserves the right to negotiate any or all proposed prices prior to any agreement/award.

15. REVIEW COMMITTEE

- a. A three (3) person Review Committee will be appointed by The Office of the State Courts Administrator to evaluate all proposals. The Review Committee reserves the right to request interviews of any or all vendors as may be necessary toward a fair and equitable proposal evaluation. The Review Committee will make a recommendation for award to the State Courts Administrator.

16. EVALUATION CRITERIA

Evaluation criteria will include the following:

- | | |
|--|-------------|
| - Proposed initial cost to implement;
(Includes licensing and services) | (30 points) |
| - Proposed recurring cost | (30 points) |
| - Meets technological requirements | (20 points) |
| - Experience in implementing proposed solution | (10 points) |
| - References | (10 points) |

17. TERMS AND CONDITIONS

This solicitation includes all terms and conditions contained in Appendix A, General Instructions to Respondents and Appendix B, General Contract Conditions.

18. POSTING

The Vendor selected for award will be listed on the Florida State Courts System website; http://www.flcourts.org/gen_public/purchasing/index.shtml, for a period of at least 72 hours.

Instructions to Respondents
Appendix A

Contents

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

1. Definitions. The State Court System Purchasing Directives govern Procurement within the Judicial Branch. However, we adopt the definitions found in s. 60A-1.001, F.A.C. shall apply to **this** agreement. The following additional terms are also defined:

- (a) “Court” means the State Court System (SCS) entity that has released to solicitation.
- (b) “Procurement Officer” means the Court’s contracting personnel, as identified in the Introductory Materials.
- (c) “Respondent” means the entity that submits materials to the Court 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. 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,
- General Conditions, and
- Introductory Materials.

The Court 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.

4. Questions. Respondents shall address all questions regarding this solicitation to the Procurement Officer. 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 Court or the State for information with the respect to this solicitation. The Court 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 Court's contracting personnel.

5. 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.

6. 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 or 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 vendor, supplier, subvendor, 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.

7. Discriminatory Vendors. Any 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 vendor, supplier, sub-vendor, or consultant under a contract with any public entity; or
- transact business with any public entity.

8. 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 Court 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 Court 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 Court in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Court 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.

9. Performance Qualifications. The Court 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 Court, 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 Court 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 Court 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 Court to make an investigation either before or after award of the Contract, but should Court elect to do so, respondent is not relieved from fulfilling all Contract requirements.

10. 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 other than in response to a specific Public Records Request. The Court may choose not to announce prices or release other materials pursuant to s. 119.07(3)(m), Florida Statutes. Any person requiring a special accommodation because of disability should contact the Procurement Officer at least (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Court by using the Florida Relay Service at (800) 955-8771 (TDD).

11. Electronic Posting of Notice of Intended Award. Based on the evaluation, on the date indicated on the Timeline the Court shall electronically post a notice of intended award at http://www.flcourts.org/gen_public/purchasing/index.shtml. If the notice of award is delayed, in lieu of posting the notice of intended award the Court shall post a notice of the delay and revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Court a notice of protest within 72 hours after the electronic posting. The Court shall not provide tabulations or notices of award by telephone.

12. Firm Response. The Court 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 Court awards the Contract or the Court receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Court's sole discretion, be accepted or rejected.

13. Clarifications/Revisions. Before award, the Court 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.

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

15. Contract Formation. The Court shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Court until the Court signs the Contract. The Court 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.

16. 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 Vendor authorizes the Court to eliminate duplication between agreements in the manner the Court deems to be in its best interest.

17. Public Records. Florida law generously defines what constitutes a public record; see, for example, section 119.07 of the Florida Statutes. If a respondent believes that its response contains information that should not be a public record, the respondent shall clearly segregate and mark the information (for example, placing the material in a separate electronic file, and including the word "Confidential" in the filename) and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption.

18. Protest. Any protest concerning this solicitation shall be made in accordance with section

**Florida State Court System
General Contract Conditions for Services**

6.10 of the State Court System Purchasing Directives.

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1. Definitions. The State Court System Purchasing Directives govern Procurement within the Judicial Branch. The following additional terms are also defined:

(a) “Contract” means legally the enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Court and Vendor.

(b) “Court” means the State Court System entity that will procure services directly from the Vendor under the Contract.

2. Invoicing and Payment. Invoices shall contain the Contract number and the appropriate vendor identification number. The State Court Systems (SCS) may require any other information from the Vendor that the State deems necessary to verify any purchase order placed under Contract. 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 Vendor due to preparation errors will result in a delay in payment. Vendors may call (850) 488-3730 Monday through Friday to inquire about the status of payments by SCS entities. The Court is responsible for all payments under the Contract. A Court's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Vendor of its obligations to the Department or to other Courts.

3. Governmental Restrictions. If the Vendor 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 Vendor shall immediately notify the Court in writing, indicating the specific restriction. The Court reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Court.

4. Lobbying and Integrity. Courts shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Vendor shall not, in connection with this or any other agreement with the SCS, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any SCS 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 SCS 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 Court's Inspector General, or other authorized SCS official, the Vendor shall provide any type of information the Inspector General deems relevant to the Vendor's integrity or responsibility. Such information may include, but shall not be limited to, the Vendor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Vendor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Vendor agrees to reimburse the SCS for the reasonable cost of investigation incurred by the Inspector General or other authorized SCS official for investigations of the Vendor's compliance with the terms of this or any other agreement between the Vendor and the SCS which results in the suspension or debarment of the Vendor. 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 Vendor shall not be responsible for any cost of investigations that do not result in the Vendor's suspension or debarment.

5. Indemnification. The Vendor shall be fully liable for all actions of its agents, employees, partners, or subvendors and shall fully indemnify, defend, and hold harmless the SCS and its officers, agents, and employees, from suits, actions, damages, and cost 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 Vendor, its agents, employees, partners, or subvendors; provided, however, that the Vendor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the SCS. Further, the Vendor shall fully indemnify, defend, and hold harmless the SCS from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the SCS shall give the Vendor (1) written notice of any such action or threatened action, (2) the

opportunity to take over and settle or defend any such action at Vendor's sole expense, and (3) assistance in defending the action at Vendor's sole expense. The Vendor shall not be liable for any cost, expense, or compromise incurred or made by the SCS in an infringement action without the Vendor's prior written consent, which shall not be unreasonably withheld. If any product is the subject of an infringement suit, or in the Vendor's opinion is likely to become the subject of such a suit, the Vendor may at its sole expense become non-fringing. If the Vendor is not reasonably able to modify or otherwise secure the SCS the right to continue using the product, the Vendor shall remove the product and refund the SCS the amounts paid in excess of a reasonable rental for past use. The SCS shall not be liable for any royalties. Except as specified in the foregoing portions of this section, for all other claims against the Vendor under any individual purchase order, and regardless of the basis on which the claim is made, the Vendor's liability under a purchase order for direct damages shall be the greater of \$100,000, the dollar amount of the purchase order. Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, or consequential damages, including lost data or records (unless the purchase order requires the Vendor 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 SCS may, in addition to other remedies available to it at law or equity and upon notice to the Vendor, retain such monies from amounts due Vendor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The SCS may set off any liability or other obligation of the Vendor or its affiliates to the State against any payments due the Vendor under any Contract with the State. The first ten dollars paid on the awarded contract shall constitute the specific consideration for the Vendor's indemnification of the SCS.

6. Limitation of Liability. For all claims against the Vendor under any individual purchase order, and regardless of the basis on which the claim is made, the Vendor'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 Vendor 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 Vendor to backup 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 institutional operating savings. The SCS and Court may, in addition to other remedies available to them at law or equity and upon notice to the Vendor, retain such monies from the amounts due Vendor as may be necessary to satisfy any claim for damages, penalties, cost and the like asserted by or against them. The SCS may set off any liability or other obligation of the Vendor or its affiliates to the SCS against any payments due the Vendor under any contract with the State.

7. Suspension of Work. The Court may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the SCS to do. The Court shall provide the Vendor 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 Vendor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Vendor, the Court 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 Vendor to any additional compensation.

8. Termination for Convenience. The Court, by written notice to the Vendor, may terminate the Contract in whole or in part when the Court determines in its sole discretion that it is in the SCS'S interest to do so. The Vendor shall not furnish any continued portion of the Contract, if any. The Vendor shall not be entitled to recover any cancellation charges or lost profits.

9. Termination for Cause. The Court may terminate the Contract if the Vendor 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, or regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Vendor shall continue work on any work not terminated. Except for defaults of subvendors at any tier, the Vendor 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 Vendor. If the failure to perform is caused by the default of a subvendor at any tier, and if the cause of the default is completely beyond the control of both the Vendor and the subvendor, and without the fault or negligence of either, the Vendor 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 Vendor to meet the required delivery schedule. If, after termination, it is determined that the Vendor 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 Court. The rights and remedies of the Court in this clause are in addition to any other rights and remedies provided by the law or under the Contract.

10. Unilateral Termination. A Court may terminate a Contract if the Vendor refuses to allow public access to all documents, papers, letters or other material made or received by the vendor in conjunction with the Contract, unless the Records are exempt from s. 24(a) of Article 1 of the State Constitution, s. 119.07(1), Florida Statutes, or 2.051 Rule of Judicial Administration.

11. Force Majeure, Notice of Delay, and No Damages for Delay. The Vendor shall not be responsible for the delay resulting from its failure to perform if neither the fault nor the negligence of the Vendor 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 Vendor's control, or for any of the foregoing that affect subvendors or suppliers if no alternate source of supply is available to the Vendor. In case of any delay the Vendor believes is excusable, the Vendor shall notify the Court 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 Vendor could not 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 Vendor first had reason to believe that a delay could result. THE FOREGOING SHALL CONSTITUTE THE VENDOR'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 Court. The Vendor shall not be entitled to an increase in the Contract price or payment of any kind from the Court 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 Vendor shall perform at no increased cost, unless the Court determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Courts, in which case the Court may (1) accept allocated performance or deliveries from the Vendor, provided that the Vendor grants preferential treatment to Courts with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Vendor for the related costs and expenses) to replace all or part of the products that are subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

12. Scope Changes. The Court 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 Court 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 Vendor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Court may solicit separate bids to satisfy them.

13. Renewal. Upon mutual agreement, the Court and the Vendor may renew the contract, in whole or 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.

14. Advertising. Subject to Chapter 119, Florida Statutes, the Vendor shall not publicly disseminate any information concerning the Contract without prior written approval from the Court, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Court or the SCS reference, or otherwise linking the Vendor's name and either a description of the Contract or the name of the SCS or the Court 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.

15. Assignment. The Vendor 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 Court; provided, the Vendor assigns to the SCS any and all claims it has with respect to the Contract under the antitrust laws of the United States and the SCS. In the event of any assignment, the Vendor remains secondarily liable for performance of the Contract, unless the Court expressly waives such secondary liability. The Court may assign the Contract with prior written notice to Vendor of its intent to do so.

16. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Court's designated Contract manager, who shall reduce the decision to writing and serve a copy on the

Vendor. 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.

17. Employees, Subvendors, and Agents. All Vendor employees, subvendors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Vendor shall furnish a copy of technical certification or other proof of qualification. All employees, subvendors, or agents performing work under the Contract must comply with all security and administrative requirements of the Court. The SCS may conduct, and the Vendor shall cooperate in, a security background check or otherwise assess any employee, subvendor, or agent furnished by the Vendor. The SCS may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualification, quality of work, change in security status, or non-compliance with a Court's security or other requirements. Such approval shall not relieve the Vendor of its obligation to perform all work in compliance with the Contract. The SCS may reject and bar from any facility for cause any of the Vendor's employees, subvendors, or agents.

18. Security and Confidentiality. The Vendor shall comply fully with all security procedures of the SCS and Court in performance of the Contract. The Vendor shall not divulge to third parties any confidential information obtained by the Vendor or its agents, distributors, resellers, subvendors, 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 SCS or Court. The Vendor shall not be required to keep confidential information or material that is publicly available through no fault of the Vendor, material that the Vendor developed independently without relying on the SCS'S or Court's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Vendor shall take appropriate steps as to its personnel, agents, and subvendors. The warranties of this paragraph shall survive the Contract.

19. Vendor Employees, Subvendors, and other Agents. The Court and the SCS shall take all actions necessary to ensure that Vendor's employees, subvendors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Vendor's employees, subvendors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

20. Insurance Requirements. During the Contract term, the Vendor 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 Vendor. Upon request, the Vendor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

21. 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.

22. Warranty of Ability to Perform. The Vendor 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 Vendor's ability to satisfy its Contract obligations. The Vendor 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 Vendor shall immediately notify the Court in writing if its ability to perform is compromised in any manner during the term of the Contract.

23. 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 Court. Notices to the Vendor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated recipient may notify the other, in writing, if someone else is designated to receive notice.

24. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall be govern all transactions between the Court and the Vendor. The Contract may only be modified or amended upon mutual written agreement of the Court and the Vendor. No oral agreements or representations shall be valid or binding upon the Court or the Vendor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Court. The Vendor 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 Vendor’s order or fiscal forms or other documents forwarded by the Vendor for payment. The Court’s acceptance of product or processing of documentation on forms furnished by the Vendor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

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

26. Waiver. The delay or failure by the Court to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Court’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.

27. Annual Appropriations. The SCS’S performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

28. 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.

29. 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.

30. Travel. Travel expenses must be submitted in Accordance with s.112.061, Florida Statutes. A Court may establish rates lower than the maximum provided in s. 112.061. 11/07/05