

CF OPERATING PROCEDURE  
NO. 75-10

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES  
TALLAHASSEE, March 15, 2006

Procurement and Contract Management

GUIDE TO COMPETITIVE PROCUREMENT – ITB/RFP/ITN

This operating procedure presents guidance for the solicitations available to the department for competitive procurement; the circumstances under which each solicitation may be used; and the guidelines to be followed for each solicitation.

BY DIRECTION OF THE SECRETARY:

*(Signed original copy on file)*

MELISSA JAACKS  
Assistant Secretary  
for Administration

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This revision includes corrections in formatting and text. The changes are minor and administrative in nature. No significant policy or procedure changes have been made in this revision.

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## Chapter 1

## COMPETITIVE PROCUREMENT OVERVIEW

1-1. Purpose. The department recognizes that competition is the foundation of our economy. The competitive forces in the marketplace drive improved quality and lower prices. Full and open competition affords all potential vendors an equal opportunity to be selected to provide products or perform services for the Department. An open competitive process instills public trust and confidence in the methods used by the department in selecting its vendors. As a result, competition is the preferred method of procurement. This operating procedure will guide department procurement and contracting staff through the competitive procurement processes. It provides specific guidance on the use of the competitive procurement types currently available to department personnel to ensure that department procurements meet the basic tenets of fair and open competition and to inspire public confidence that contracts are awarded equitably and economically. Additionally, this chapter discusses specific requirements to be adhered to when conducting a competitive procurement. While any contract may be procured competitively, all contracts over Category Two (see Appendix A of CFOP 75-2 for a chart of purchasing category threshold amounts) that are not exempt from the competitive procurement procedures of Chapter 287, F.S., must be procured by competitive methods. Chapter 1 defines each of the types of procurement and addresses the processes applicable to all competitive procurements. For detailed guidance on the requirements for a specific competitive procurement type, refer to the chapter on that type. Unless referring to the competitive procurement document specifically, the Invitation to Bid (ITB), Request for Proposals (RFP), and Invitation to Negotiate (ITN) are referred to in this document as solicitations.

1-2. References. Sections 20.19, 120.57, 287.001, 287.012, 287.057, and 402.73 F.S. and, CFOP 75-2.

1-3. Competitive Procurements. Competitive procurement procedures are established to ensure fair and open competition.

a. Developing the solicitation is a major part of competitive procurement. A clearly written solicitation will have a positive affect on every aspect of procurement and delivery. Producing a quality solicitation at the beginning of the contracting process may:

- (1) Increase the level and quality of services to DCF clients;
- (2) Increase the quality of responses submitted;
- (3) Reduce future payment problems;
- (4) Decrease the number of contract amendments;
- (5) Clarify issues to be negotiated at the time of contracting;
- (6) Reduce incidences of protests;
- (7) Decrease the number of inquiries and questions; and/or,
- (8) Help avoid complicated and time consuming problems later.

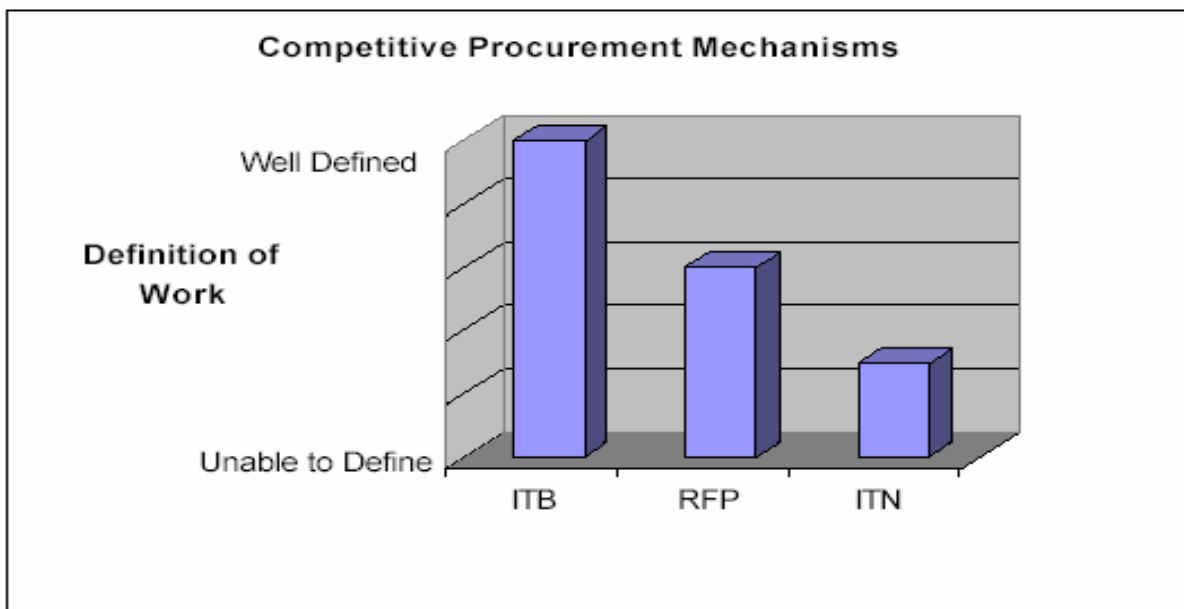
b. The task of developing the solicitation is less complicated if broken down into logical sections. It is best to approach the development of each section one at a time. The solicitation development process can be time consuming. Because the solicitation development process is

lengthy, allow a minimum of four to six months to develop the solicitation prior to the pending contract's beginning date. Before writing the solicitation, as procurement manager you must:

- (1) Ensure that you have selected the appropriate solicitation for procurement of your proposed service, product, or project.
- (2) Ensure that the appropriate funding source has been identified, and that adequate budget authority exists.
- (3) Contact Zone Contract Administration or Central Office for any training and materials that may be available or visit DCF's Contract Administration website at <http://ewas.dcf.state.fl.us/asc/> for additional assistance.
- (4) Ask your supervisor, contract administration, and local legal counsel for input and support.
- (5) After consulting with your supervisor and local legal counsel, organize a development team to assist in the writing of the evaluation criteria and the solicitation (if needed).
- (6) Try to anticipate any problems that may occur. Do your homework. Document everything.
- (7) All information that the vendor is to provide must be identified and specified in the solicitation.

c. One of the types of procurement described in the following paragraph must be used for procurements greater than the threshold amount for Category Two, according to subsection 287.057(1)(a), F.S. See CFOP 75-2, Appendix A, for the current threshold amounts. Unless dictated by law or rule, it is the responsibility of the procurement manager to conduct and document the market research and analyses necessary to determine which procurement type is in the best interest of the state. The selection of a competitive procurement type is based on several factors. One of the most important factors relates to the degree of definition present in the commodities or services to be procured. Figure 1-A illustrates how the degree of definition relates to the type of competitive procurement.

**Figure 1-A**



d. Types of Procurement. This operating procedure will outline the specific requirements for each of the following competitive procurement types:

(1) Invitation To Bid (ITB). The ITB is a written solicitation for competitive sealed bids. The ITB is used when the commodities or contractual services sought can be specifically defined and the selection of the vendor is to be based solely on price. ITBs include instructions prescribing all terms and conditions for bidding and shall be distributed to all vendors simultaneously. The requirements of the procurement are defined in sufficient detail to allow the selection of the vendor to be based solely on price.

(a) The ITB must include a detailed description of the commodities or contractual services sought, the time and date for the receipt of bids and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the bid.

(b) A *Bid* is the written response to the ITB.

(c) The contract is awarded to the responsible and responsive vendor who submits the lowest responsive bid that conforms to all the terms and conditions of the ITB. This bid must be determined in writing to meet the requirements and criteria set forth in the ITB at the lowest price.

(2) Request for Proposal (RFP). The RFP is a written solicitation for competitive sealed proposals that is used when specifications cannot be defined with sufficient specificity to use the ITB and the department determines that it is necessary to consider factors other than price when awarding the contract.

(a) The RFP includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. RFPs designate the date and time of the public proposal opening, a statement of the services sought, all contractual terms and conditions applicable to the procurement of contractual services, and specific instructions for submitting proposals, such as required format and budget information, applicable laws and rules, and a deadline for submittal. If the department contemplates renewal of the contract, that fact must be stated in the RFP. The proposal shall include the price for each year for which the contract may be renewed. RFPs must include specific evaluation criteria and the weight or value assigned to each criterion.

(b) A *Proposal* is the written response to the RFP.

(c) The department may select the responsible and responsive vendor whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the RFP. The procurement file must contain documentation supporting the basis on which the award is made.

(3) Invitation To Negotiate (ITN). The ITN is a written solicitation for competitive replies. When neither the ITB nor RFP are practicable, an ITN may be used. Use of the ITN is appropriate when it is clear that negotiations surrounding the qualifications of the vendor and the scope of work designed to achieve the goal of the contract are more critical to the success of the contract than the price. Paragraph 4-3 of this operating procedure provides details on when the ITN may/may not be used as a solicitation option.

(a) The ITN includes a statement of the commodities or contractual services sought; the time and date for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the

acceptability of the reply. If the department contemplates renewal of the contract, that fact must be stated in the ITN. The reply shall include the price for each year for which the contract may be renewed.

(b) A *Reply* is the initial written response to an ITN.

(c) The department may select the responsible and responsive vendor whose reply is determined in writing to be the most advantageous to the state, taking into consideration the qualification requirements of the ITN. The procurement file must contain documentation supporting the basis on which the award is made.

e. Developing the Schedule of Events and Deadlines. The procurement manager must conduct a planning process backward from the date services are anticipated to begin to allow for the known and possible unknown time restrictions. Chapter 5, Advertising and Distribution, provides detailed guidance on requirements for posting of notices and distribution restrictions that must be adhered to for all competitive procurements. Guidance on preparing the Schedule of Events and Deadlines is included in the chapters on the various types of procurement (ITB, RFP, ITN). The Schedule of Events and Deadlines will contain dates of all relevant deadlines to alert vendors to the significant milestones in the procurement process prior to contract execution. In addition to dates relevant to vendors, the procurement manager will need to take into consideration the time required to conduct other important activities related to the procurement including: develop the solicitation document, conduct an evaluation, and route the contract document for review and execution.

#### 1-4. Approval Requirements.

a. Documenting the Procurement Decision. The procurement manager must document, in writing, the decision process used to determine which type of competitive procurement will be used. The following chapters on the individual types of procurement provide guidance on when the use of each type is appropriate. NOTE: The determination to use the ITN is reviewed by local legal counsel and approved in writing by the Secretary or designee (Request for Approval to Use an Invitation to Negotiate, Appendix E).

b. Approval of the Solicitation. The solicitation must be approved pursuant to the most recent Delegation of Authority found in CFOP 75-2, Appendix E, prior to being advertised. All solicitations must be reviewed and signed off by the appropriate staff, i.e., local legal counsel, district and contract administrators, and the contract signer prior to being advertised by the procurement manager, contract manager, or designee, hereby referred to as the procurement manager.

1-5. Ethical Considerations. All department employees participating in competitive procurement are prohibited by Chapter 112, Part III, F.S., from soliciting or accepting anything of value that might lead to the perception that they might be improperly influenced in the discharge of their responsibilities.

a. Procurement Employee. According to s. 112.3148, F.S., a "procurement employee" means any employee of a [department] who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds \$1,000 in any year.

b. Ethics Violations. Examples of ethics violations include, but are not limited to the following:

(1) Deliberately failing to disclose a conflict of interest in the course of one's duties.

(2) Engaging in or carrying on a business enterprise with a client or person doing business with the department.

(3) Accepting or requesting gifts or gratuities from contractors, vendors, or clients in violation of the Public Employee's Code of Ethics.

c. Statement of No Involvement.

(1) The vendor should be advised that responses to a solicitation must include a signed statement indicating that neither the prospective vendor nor any person with an interest in the firm:

(a) Had a contract that was not competitively procured to perform a feasibility study for the potential implementation of a subsequent contract; or,

(b) Participated in the drafting of a solicitation; or,

(c) Developed a program for future implementation dealing with the specific subject matter of this solicitation.

(2) A copy of the Statement of No Involvement (Appendix A) is also available on the DCF website.

d. Employee responsibilities. All department employees participating in the competitive procurement process should be familiar with s. 112.3185, F.S., which details an individual's responsibilities and limitations as a procurement employee under Florida law.

e. Conflict of Interest. In accordance with s. 287.057, F.S., any person participating in the procurement process must complete the Conflict of Interest Questionnaire to ensure that no conflict of interest exists that would interfere in the selection of a vendor. The Conflict of Interest Questionnaire (Appendix C) shall be reviewed and approved by the Contract Management Supervisor. If any participant in the procurement process answers "yes" to any question, his/her participation must be reviewed by the procurement manager and Contract Management Supervisor in conjunction with local legal counsel. If any conflict or potential conflict is identified a description of how that conflict was resolved is required in the procurement file.

1-6. Vendor Issues. The Department of Management Services (DMS) requires that all vendors who offer services to the State register in MyFloridaMarketPlace (MFMP), the state eProcurement system, in compliance with Rule 60A-1.030, Florida Administrative Code (F.A.C.). Unless the vendor is exempt by Rule, proof of registration in MFMP will be a fatal criterion in the evaluation of responses to a competitive solicitation. The procurement manager shall determine the vendor's registration status prior to entering into any contract with that vendor. Vendors that do not comply with the registration requirement may be placed on "inactive" status within the State Purchasing System Vendor File. Notice of the MFMP vendor registration requirements must be included in all competitive solicitations issued by the department.

a. Requirement to Register. No contracts may be awarded by any state agency to any vendor who is not registered in the MyFloridaMarketPlace eProcurement system. The procurement manager can verify a vendor's registration in MFMP by requiring that the vendor submit a copy of the Certification of Registration in MyFloridaMarketPlace. To ensure compliance with this requirement, all competitive solicitations issued by the department shall include a notice of the requirement to register in MFMP in the Instructions to Vendors section.

b. Website for Registration. Vendors can complete the MFMP registration on the Internet at <http://www.myflorida.com>. The vendor is responsible for submitting evidence of registration, or proof of

exemption by Rule from registration, with any response to a solicitation in a competitive procurement and before negotiations are initiated in a noncompetitive procurement.

c. Exempt Vendor in Accordance with 60A-1.030(3), F.A.C. The department may enter into a contract with an unregistered vendor outside of MFMP if one or more of the conditions exempting the vendor from registration under Rule 60A-1.030(3), F.A.C., are met. Prior to entering into the contract the procurement/contract manager is responsible for ensuring that the vendor is registered in Statewide Purchasing Subsystem (SPURS). Current business practices will be followed to ensure that disbursements to the vendor are completed in Florida Accounting Information System (FLAIR) (or its successor, ASPIRE).

d. Unregistered Vendor (willing). In certain time critical situations the department may need to contract with a vendor who is not yet registered in the MFMP system. In such cases the Purchasing Director (or designee) must determine, in writing, that contracting with this vendor is necessary to prevent significant interference with the department's mission.

(1) The procurement/contract manager shall file the Purchasing Director's determination in the official procurement file and proceed with the procurement.

(2) The following clause shall be inserted in contracts with unregistered vendors (willing):

**The vendor acknowledges that it has been advised of the requirements of Rule 60A-1.030, F.A.C., and agrees to be subject to the terms of use of the MyFloridaMarketPlace system and related Rules. Further the vendor agrees to register in the MyFloridaMarketPlace system within twenty (20) days after the start date of this contract. Final approval of receipt of the commodities or services provided by this contract will not be given until the vendor has completed the registration process.**

e. Unregistered Vendor (reluctant). If the department must contract with a vendor who refuses to register in MFMP the procurement/contract manager shall explain the MFMP system including its benefits to the vendor and request that the vendor register. If the vendor still refuses, the Zone Support Services Director or, for Central Office, the Assistant Secretary for Administration must determine, in writing, that contracting with this vendor is necessary to prevent significant interference with the agency's mission. In addition, the procurement/contract manager shall complete the Form [PUR 3779](#) and forward it to the Customer Service Help Desk at [vendorhelp@myflorida.com](mailto:vendorhelp@myflorida.com). The Customer Service Help Desk will partially register the vendor in the MFMP system and acknowledge the partial registration via return email to the requester within 24 hours.

NOTE: This partial registration of the vendor is for administrative purposes only. It does not afford the vendor any of the benefits associated with regular registration (e.g. electronic notification of business opportunities, participation in the eQuotes process, ability to view solicitations and notifications electronically, and ability to manage their vendor profile). Partial registration does not obligate the vendor to payment of the transaction fee.

f. Women and Minority Business Enterprise. A Minority Business Enterprise (MBE) is a small business enterprise engaged in commercial transactions (for profit) domiciled in Florida and owned (at least 51 percent), managed and controlled by minority persons who are permanent residents of Florida and are citizens of the United States of America. Permanent Resident Aliens are **NOT** eligible for certification. An MBE is independently owned and operated with a net worth of not more than \$5 million and 200 or fewer full-time, permanent employees. A business recognized as a business certified under section 8 (a) of the Small Business Act (P. L. 85-536) by the federal government is also considered a MBE. A certified business must register on MyFloridaMarketPlace and must also submit required

minority business supporting documentation within 25 days of registration to the Florida Office of Supplier Diversity. See s. 288.703, F.S., for more information. State agencies, state universities, and contractors are encouraged to cooperate with the MBE program in meeting the state's commitment regarding utilization of Florida's minority businesses. For information on the MBE Program, visit their website at <http://osd.dms.state.fl.us/>.

(1) Minority Vendor Registration. A Certified Minority Business Enterprise (CMBE) is a minority business enterprise which has registered with the Office of Supplier Diversity (OSD). Vendors can now apply for Minority Business Certification online when registering with MyFloridaMarketPlace. All vendors seeking certification or re-certification must register with MyFloridaMarketPlace. If a CMBE is awarded the contract, the procurement manager must verify the certification and ensure that the proper coding is entered on the CF 1122 Form. The principle focus of OSD is to improve economic opportunities for women and minority-owned businesses in the State of Florida.

(2) Website for One Florida Initiative. Details on the One Florida Initiative are available at [http://www.state.fl.us/eog/one\\_florida/index.html](http://www.state.fl.us/eog/one_florida/index.html).

(3) Office of Supplier Diversity Review. Section 287.09451, F.S., mandates agencies to submit all contracts over Category Four for bid review by OSD before official release to the public to allow them to identify ways for better inclusion of minority businesses in state contracting. At least 30 days prior to issuance of solicitations, a completed Bid Preparation Form must be sent to the OSD. If a response is not received from the OSD within 20 working days after they receive the Bid Preparation Form, the district may proceed with solicitations. Failure to comply with these requirements will grant the OSD the right to protest.

1-7. Contract Provisions. This section of the solicitation includes the Standard Contract (or a list of required contract provisions if that document is not used), the Attachment I (if it is used) and the General Contract Conditions, PUR 1000 form. Any ambiguity or inconsistency among the contract documents shall be resolved by applying the following order of precedence:

- Standard Contract or other contract document, including any amendments,
- The Solicitation Document and its appendices, including any addenda,
- The vendor's response to the solicitation.

a. The Standard Contract. The department's standard contract is the document that contains the basic contracting terms and clauses required in all department contractual services contracts. This includes administrative, financial, and non-programmatic terms and conditions usually mandated by federal and state statutes, rules, regulations, and policies of the department and other applicable state agencies, such as the Office of the Chief Financial Officer, Department of Financial Services (DFS).

(1) Whenever the department's standard contract is used in contracting, it is mandatory that a copy of it be included as an attachment to the solicitation. It is **required** that reference be made as follows:

**The department's standard contract contains additional general contract terms and conditions required by the department for all vendors.**

(2) The standard contract must not be changed without the prior written approval from the Office of Contract Administration (ASCA) and the Office of Legal Services (OSLS). If it is determined that the terms and conditions provided in the standard contract are not adequate for the development of a specific solicitation, the contract administrator and local legal counsel must be consulted for advice. No attempt should be made to use legal terms and conditions without administrative and legal consultation. A copy of the department's standard contract is available at <http://ewas.dcf.state.fl.us/asc/>.

b. Attachment I. An Attachment I is that section of the contract which addresses all the contract terms and conditions which are not covered by the standard contract. Attachment I must be written to include as many terms and conditions as are known at the time of the solicitation and is to be included as an attachment to the solicitation. It is **recommended** that reference be made as follows:

***The Attachment I contains all additional contract terms and conditions known at the time of the solicitation which are required of the vendor.***

c. The Program Specific Model Attachment I (PSMAI). The PSMAI is a standardized form of Attachment I developed by the Central Office for use across the state. Where PSMAIs have been developed their use is mandatory. If services are to be rendered according to a PSMAI, a copy of the model must be included in the solicitation. It is **required** that reference be made as follows:

***The department's Program Specific Model Attachment I contains provisions required by the department and/or district/region for all vendors.***

d. General Contract Conditions – PUR 1000. This form contains standard contract terms and conditions that will apply to the contract that results from the solicitation. In the event of any conflict between the PUR 1000 form and any terms or conditions in the Standard Contract or Attachment I, the terms and conditions in the contract shall take precedence over the conflicting term in the PUR 1000. However, if the conflicting term in the PUR 1000 is required by any section of the Florida Statutes, the term contained in the PUR 1000 shall take precedence.

Chapter 2

INVITATION TO BID (ITB)

2-1. Purpose. This chapter offers an outline of the ITB process and details of the recommended or required language that must appear in the ITB.

2-2. References. Sections 20.19, 120.57, 287.001, 287.012, 287.057, and 402.73 F.S., and CFOP 75-2.

2-3. The ITB. The ITB is the preferred type of competitive procurement and is used to acquire all commodities or contractual services in excess of the threshold amount for Category Two where only the cost will be used to select the vendor (no negotiations are permitted). In an ITB, the services to be provided must be accurately detailed and broken down into units of service.

a. An ITB includes a detailed description of the services sought, the date and location for submission of bids, and all contractual terms and conditions applicable for procurement of contractual services. The contract is awarded to the vendor who conforms to all the material terms and conditions of the ITB and has the lowest price.

b. For the competitive ITB procedure to be feasible, appropriate conditions must be present, including at a minimum the following: a complete set of specifications/description of the services is available; two or more vendors are willing and able to compete for the contract; the procurement lends itself to a firm fixed price contract; and selection of the successful vendor can be made solely on the basis of price.

2-4. Outline of the ITB. The following detailed outline lists the information that must be contained in the ITB. The format of the ITB and specific contents may be modified depending on the commodities or services being procured, the anticipated dollar amount of the contract, and the funding source.

<b>ITB Outline: (Title)</b>	
a.	Introduction <ul style="list-style-type: none"> <li>(1) Statement of Need</li> <li>(2) Statement of Purpose</li> <li>(3) Term of Agreement</li> <li>(4) Definitions</li> </ul>
b.	ITB Process <ul style="list-style-type: none"> <li>(1) Contact Person</li> <li>(2) Posting</li> <li>(3) Vendor Disqualification</li> <li>(4) Limitations on Contacting Departmental Personnel</li> <li>(5) Schedule of Events and Deadlines</li> <li>(6) Solicitation Conference</li> <li>(7) Inquiries</li> <li>(8) Withdrawal of Bids</li> <li>(9) Acceptance/Rejection of Bids</li> <li>(10) Notice of Intent to Award a Contract</li> <li>(11) Protests and Disputes</li> </ul>
c.	Minimum Programmatic Requirements <ul style="list-style-type: none"> <li>(1) General Statement</li> <li>(2) Programmatic Authority</li> <li>(3) Scope of Service</li> <li>(4) Major Program Goals</li> </ul>

- (5) Client General Description
  - (6) Client Eligibility
  - (7) Client Determination
  - (8) Client Contract Limits
  - (9) Task List
  - (10) Task Limits
  - (11) Staffing Levels
  - (12) Professional Qualifications
  - (13) Staffing Changes
  - (14) Subcontractors
  - (15) Service Delivery Location
  - (16) Services Times
  - (17) Changes in Location
  - (18) Equipment
  - (19) Service Unit
  - (20) Records and Documentation
  - (21) Reports
  - (22) Performance Measures
  - (23) Description of Performance Measurement Terms
  - (24) Performance Evaluation Methodology
  - (25) Vendor Unique Activities
  - (26) Coordination With Other Vendors/Entities
  - (27) Department Obligations
  - (28) Department Determinations
  - (29) Monitoring Requirements
- d. Financial Specifications
- (1) Funding Source
  - (2) Invoicing and Payment of Invoices
  - (3) Cost Bid
  - (4) MyFloridaMarketPlace Transaction Fee
- e. Instructions to Vendors
- (1) Vendor Registration in MyFloridaMarketPlace
  - (2) General Instructions to Respondents, PUR 1001
  - (3) Title Page
  - (4) Required Vendors' Statements or Certifications
  - (5) Trade Secrets
  - (6) Cost of Preparation of Bid
  - (7) Number of Copies Required
  - (8) How to Submit a Bid
  - (9) Other Required Information
- f. Bid Rating and Bid Tabulation Sheet
- (1) Description of Bid Rating Methodology
  - (2) Identical or Tie Responses
  - (3) ITB Tabulation Methodology
- g. Contract Provisions
- (1) Standard Contract
  - (2) Attachment I
  - (3) General Contract Conditions, PUR 1000
  - (4) Audit Attachment

## 2-5. Required Components of the ITB.

### a. Introduction. Give background and an overview of the goods or services being procured.

(1) Statement of Need. Describe the circumstances, which contribute to the necessity of the procurement, and in general terms, what the department is trying to buy. Including this section in the ITB eliminates the necessity of a separate determination of need statement to be placed in the procurement file.

(2) Statement of Purpose. Briefly describe what goods or services are to be provided. This statement must relate to the Statement of Need.

(3) Term of Agreement. Describe the duration of the contract (include both start date and end date) that will result from this solicitation. There is no standard language for this component of the ITB.

(4) Definitions. Provide a list of definitions for important contract terms. Include definitions for all terms that are unfamiliar, unusual, or unique to the ITB, including those for contract terminology, program or service specific terminology, standards definitions, performance definitions, and acronyms (if necessary). See ASC website for glossary of terms that may be provided upon request to the vendor by the procurement manager.

### b. ITB Process. Provide details concerning the ITB process including the schedule of events and deadlines.

(1) Contact Person. List the department employee (usually the procurement manager) responsible for the procurement; include his/her organizational unit, address, and phone number. This person is also responsible for conducting the Solicitation Conference (if held) and answering any inquiries concerning the ITB. Inquiries in the form of faxes or emails will not be accepted. To maintain consistency in the department's responses to inquiries, it is important to designate only one individual as the contact person (i.e., procurement manager, contract manager, or designee).

(2) Posting. Detail the posting process with regard to the solicitation. The electronic posting on the MyFlorida.com website is the official posting for the purpose of calculating the window for the submission of protests. To allow the department the option to physically as well as electronically post notices, the language outlined in Chapter 6 must be included in the solicitation.

(3) Vendor Disqualification. Advise the vendor of the department's practice concerning unsatisfactory prior performance or other concerns with a vendor's qualifications to enter into the bid process.

(4) Limitations on Contacting Departmental Personnel. Instruct the vendor of the restrictions and penalties associated with contacting department personnel other than the contact person during the ITB process.

(5) Schedule of Events and Deadlines. Develop a schedule containing dates of all relevant deadlines for bids prior to execution of the contract. This schedule must be included in all ITBs to ensure vendor compliance. While the schedule must include at least the activities listed below, the sequential order may vary from ITB to ITB. The Solicitation Conference can be excluded from the schedule if no conference is to be held (the Solicitation Conference is not mandatory). See Table A below for a sample schedule.

Table A

ACTIVITY	DUE DATE	TIME	ADDRESS
Advertise/Release ITB on MyFlorida.com			
Hold Solicitation Conference			
Receive all inquiries			
Respond to inquiries			
Receive all sealed bids			
Open bids			
Evaluation Team Initial Meeting			
Evaluation Team Debriefing			
Post the Notice of Intent to Award			
Anticipated effective date of contract			

(6) Solicitation Conference. The purpose of the Solicitation Conference is to review the ITB with interested vendors.

(a) A Solicitation Conference may be held at the procurement manager's discretion. If held, the time and place of the conference must be included in the Schedule of Events and Deadlines published in the ITB.

(b) A Solicitation Conference is a public meeting and should be conducted in accordance with section 286.011, F.S., and noticed on the MyFlorida.com website. As directed in subsection 287.057(4), F.S., vendors shall be accorded fair and equal treatment.

(c) The procurement manager shall ensure that all names, titles, and groups or firms attending the conference are recorded.

(d) An agenda of items to be discussed, such as clarification of the statement of work provisions, billing and payment procedures, reporting requirements, and allowable cost determinations should be developed and distributed at the Solicitation Conference. If needed, the agenda may be simply to answer vendor's questions. The procurement manager should present the items listed in the agenda.

(e) After the initial presentation, the floor should be opened for questions. The procurement manager should ensure that either notes are taken or the conference recorded so that the events of the conference are documented. A summary of conference events must be written by the procurement manager.

(f) Attendance at a solicitation conference is not mandatory unless required in the ITB. A bid may be submitted and accepted from an individual or firm that has not attended the conference, providing attendance at the conference is not mandated in the ITB.

(g) The procurement manager should involve representation from OSLs and Contract Administration in the Solicitation Conference.

(h) The following language **must** be included in all solicitations where solicitation conferences are anticipated:

**Small Businesses, Certified Minority and Women's Business Enterprises are encouraged to participate in any conferences, pre-solicitation, or pre-bid meetings which are scheduled.**

(7) Inquiries. This section of the ITB assists vendors with making inquiries. A specific statement must be developed for each ITB, which indicates that: (a) only written inquiries may be submitted, no faxes or emails will be accepted; (b) the date and time of the deadline (after which no inquiries will be accepted) for acceptance of inquiry; and (c) name, title, and address of the contact person. In addition, the following language is **required** for use in this component of the ITB:

**Copies of the responses to all inquiries, including written departmental clarifications and/or addenda, if made to the ITB, will be made available through electronic posting on the MyFlorida.com website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs www.main menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu).**

(8) Withdrawal of Bids. Advise the vendor of the time limit restrictions for withdrawing a submitted bid. The following language is **required** for use in this component:

**A written request for withdrawal, signed by the vendor, may be considered if received by the department within 72 hours after the bid opening time and date indicated in the Schedule of Events and Deadlines. A request received in accordance with this provision may be granted by the department upon proof of the impossibility to perform based upon an obvious error on the part of the vendor.**

(9) Acceptance/Rejection of Bids. The ITB **must** contain the following required statements:

**Bid Deadline**

**Bids must be received by the department no later than (enter time, date, and place as indicated in the proceeding deadline schedule). Any bid submitted shall remain a valid offer for at least 90 days after the bid submission date. No changes, modifications, or additions to the bids submitted after the deadline for bid opening has passed will be accepted by or be binding on the department.**

**Receipt Statement**

**Bids not received at either the specified place, or by the specified date and time, or both, will be rejected and returned unopened to the vendor by the department. The department will retain one unopened original for use in the event of a dispute.**

**Right to Waive Minor Irregularities Statement**

**The department reserves the right to reject any and all bids or to waive minor irregularities when to do so would be in the best interest of the State of Florida. Minor irregularity is defined as a variation from the Invitation to Bid terms and conditions, which does not affect the price of the bid, or give the vendor an advantage or benefit not enjoyed by other vendors, or does not adversely impact the interest of the department. At its option, the department may correct minor irregularities but is under no obligation to do so whatsoever.**

(10) Notice of Intent to Award a Contract. The Notice of Intent to Award a Contract shall be made to the vendor whose bid is determined by the Secretary or designee to be the lowest responsive, responsible bidder.

(a) Standard language for this section is as follows:

**The agency shall award the contract with reasonable promptness by written notice to the responsible and responsive vendor that submits the lowest responsive bid. This bid must be determined in writing to meet the requirements and criteria set forth in the invitation to bid.**

(b) Posting a notice of award is required. The notice shall be posted on the MyFlorida.com website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu).

(c) Ensure that the notice is posted on the MyFlorida.com website for 72 hours (3 working days). In the computation of the 72-hour time frame for filing of a protest, Saturdays, Sundays and state holidays are excluded. The procurement or contract manager must ensure that the date and time of posting on the MyFlorida.com website are documented in the contract file. The department may also post the evaluation bid tabulation sheet and the Notice of Intent to Award or other information or notices relating to the procurement at a secondary location where it will remain for 72 hours (3 working days) thereafter. However, notice must be specifically given that this secondary posting is not an official posting and that any protest must be filed within 72 hours of the posting on the MyFlorida.com website.

(11) Sureties – Bid Guarantee. For high risk procurements as determined by program administrators in consultation with local legal offices, instruct the vendor of the requirement to submit a bid guarantee with the bid. The bid guarantee provides a measure of assurance to the department that the vendor is willing to be held to the terms and conditions of the bid and will enter into a contract if an award is made.

(12) Sureties – Performance Bond. For high risk procurements, as determined by program administrators in consultation with local legal office, this component of the ITB will advise the vendor of the requirement for the vendor to submit a performance bond upon execution of a contract if the vendor's bid is selected for award. The performance bond provides a measure of assurance to the department that the vendor will perform as agreed to in the contract terms and conditions, and will assist it in defraying the cost of re-procurement if needed. Consult your local legal office for guidance in the use of the sureties clause.

(13) Protests and Disputes. The following clause is **required** in the posted notice of any department decision, intended decision, solicitation or contract award:

**Protests and Disputes**

**Any person who is adversely affected by the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract shall file a notice of protest in writing within 72 hours (Saturdays, Sundays and state holidays excluded) after the posting of the solicitation or decision or intended decision. FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN SECTION 120.57(3), F.S., SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES.**

**When protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of the department's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by**

**the protestor. If no contract price was submitted, the department shall provide the estimated contract amount to the protestor within 72 hours (excluding Saturdays, Sundays and state holidays) after the notice of protest has been filed. The estimated contract amount is not subject to protest pursuant to section 120.57(3) F. S. The bond shall be conditioned upon the payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought and in any subsequent appellate court proceeding. FAILURE TO FILE THE PROPER BOND AT THE TIME OF FILING THE FORMAL WRITTEN PROTEST WILL RESULT IN A REJECTION OF THE PROTEST. In lieu of a bond the department may accept a cashiers check, official bank check, or money order in the amount of the bond.**

NOTE: Factors which can be taken into consideration when determining the cost of the contract include, but are not limited to, the following:

- The price of previous or existing contracts for similar contractual services.
- The amount appropriated by the Legislature for the contract.
- The fair market value of similar contractual services.

c. Minimum Programmatic Requirements. This section of the ITB is different from that of an RFP or ITN in that the services must be very specific and exact. In an ITB, the department must detail exactly what services are to be provided, as well as the manner of service provision including all tasks to be performed under the resulting contract. These minimum programmatic requirements will become the Attachment I upon contract award.

(1) General Statement. Provide a general description of the goods or services to be procured under the contract and what will be expected of the vendor.

(2) Programmatic Authority. Provide the authority, e.g., statutory reference, Florida Administrative Code (F.A.C.) rule number, Code of Federal Regulation (CFR) number, or other source of authority under which the program operates and is administered. **Recommended** language for this component is as follows:

**The successful vendor must comply with all applicable Federal and state laws, regulations, action transmittals, program instructions, review guides and similar documentation.**

(3) Scope of Service. Provide a precise description of the limits or boundaries within which the goods or services will be delivered, and the amount and frequency of delivery that is expected.

(4) Major Program Goals. Describe the major goals of the program which the contract will support. Describe any long range or broad objectives which are pertinent, and, as appropriate, describe the department's ultimate purpose for contracting for the services to be performed.

**Note: Subparagraphs (5), (6), (7) and (8) below pertain to client services contracts only. The subparagraphs may be renumbered accordingly.**

(5) Client General Description. Provide a precise description of the clients who will receive services under the contract including, as appropriate, the estimated size(s) of the client population(s) to be served. There is no suggested language for this component.

(6) Client Eligibility. Provide specific criteria or client characteristics that will be used to determine whether a client will receive the contracted services. Such criteria may include, but are not

limited to, age, sex, medical condition, economic status, previous history, referral source, potential prognosis, or city/county of residence.

(7) Client Determination. Provide any specific client selection information necessary for the vendor, and describe any information that will be necessary to determine client eligibility. Include information such as specific types of exclusions, specific types of inclusions, how eligibility questions are to be resolved, and who has the authority to make final determinations. **Required** language for this component is as follows:

**In the event of any disputes regarding the eligibility of clients, the determination made by the department is final and binding on all parties.**

(8) Client Contract Limits. Advise the vendor of any limitations that may affect or will limit the number of clients to be served, the amount of service available to individual clients, or the monetary value of the contract.

(9) Task List. Provide a list of specific tasks, e.g., counseling, transportation, day care, case management, etc., which will be performed under the contract along with a description of the task, and any specific elements which are included or must be considered in task performance. It is critical that this component of the ITB be well developed. Include all the minimum requirements for each task to be performed. There is no recommended language for this component.

(10) Task Limits. Provide a description of the limits within which the tasks must be performed. These limits may be programmatic, medical, financial, legal, or geographic. If there are no specific task limits, the following language is **recommended**:

**The successful vendor is not authorized by the department to perform any tasks related to the project other than those described in the Task List without the express written consent of the department.**

(11) Staffing Levels. Specify the number and type of staff members the successful vendor is required to have available to perform the work. **Recommended** language for this component is as follows:

**Each vendor shall include its proposed staffing for technical, administrative, and clerical support. The successful vendor shall maintain an adequate administrative organizational structure and support staff sufficient to discharge its contractual responsibilities. In the event the department determines that the successful vendor's staffing levels do not conform to those promised in the bid, it shall advise the successful vendor in writing and the successful vendor shall have 30 days to remedy the identified staffing deficiencies.**

**Any employee whose continued presence would be detrimental to the success of the project as determined by the department shall be replaced by the vendor with an employee of equal or superior qualifications. The department's contract manager will exercise exclusive judgment in this matter.**

(12) Professional Qualifications. Specify what professional licenses, certifications, or experience the vendor's professional staff members are required to possess or obtain.

(13) Staffing Changes. Specify under what conditions the vendor is required, or permitted to make staffing changes, specify what approvals or notification requirements are necessary to make staffing changes, and any lead times required for notifications or approvals. **Recommended** language for this component is as follows:

**The successful vendor shall staff the project with key personnel identified in the vendor's bid which are considered by the department to be essential to this project. Prior to substituting any of the proposed individuals the vendor shall notify and obtain written approval from the department of the proposed substitution. Written justification should include documentation of the circumstances requiring the changes and a list of the proposed substitutions in sufficient detail to permit evaluation of the impact on the project. The department, at its discretion, may agree to accept personnel of equal or superior qualifications in the event that circumstances necessitate the replacement of previously assigned personnel. Any such substitution shall be made only after consultation with the Contract Manager's supervisor.**

(14) Subcontractors. Specify whether, and under what conditions, the vendor is permitted to use subcontractors and what approval or notification requirements are pertinent to the use of subcontractors. **Recommended** language for this component is as follows:

**Only with the prior consent of the department, may the vendor, enter into subcontract(s) for performance of certain of its functions under the contract. Subcontractors known at the time of the proposal submission and the amount of the subcontract shall be identified in the vendor's response to this Invitation to Bid. The act of subcontracting requires approval in writing by the department's Contract Manager prior to the effective date of any subcontract. No subcontract which the vendor enters into with respect to performance under the contract resulting from this Invitation to Bid shall in any way relieve the vendor of any responsibility for performance of its duties. All payments to the subcontractors shall be made by the vendor.**

(15) Service Delivery Location. Specify the street address, city, etc., where the services are to be delivered. If the vendor is supplying a facility or building as part of its performance under the contract, describe any specific physical or facility requirements which must be available for service delivery or client use.

(16) Service Times. Specify when the services must be available, the minimum or maximum frequency of the delivery of services, any requirements for responding to emergencies or unexpected needs for service, and any information necessary to identify what constitutes service completion.

(17) Changes in Location. Specify who may approve changes in location during the course of the contract, advance notification requirements to change location, and requirements for temporary arrangements which must be made in the event of location changes. **Required** language for this component is as follows:

**The successful vendor shall notify the department in writing a minimum of {insert accepted period of time} prior to making changes in location that will affect the department's ability to contact the successful vendor by phone or facsimile transmission.**

(18) Equipment. Describe any equipment that the vendor proposes to use and which must be available for service delivery. **Recommended** language for this component is as follows:

**The selected vendor will be responsible for supplying, at its own expense, all equipment necessary to perform under, conduct and complete the contract including but not limited to computers, telephones, copiers and fax machines including supplies and maintenance, as well as needed office supplies.**

(19) Service Unit. Describe, specifically, what comprises a service unit, how many units, by type of service, will be provided under the contract, and if applicable, any limitations or special considerations that affect the delivery of service units. Other characteristics of the service to be provided, such as unit of measure and quantity, must also be specified here. If the quantity of service units to be provided is expected to vary throughout the life of the contract, the variables affecting the service must be described.

(20) Records and Documentation. Describe the form, content, and construction of any records or documentation which the vendor is required to maintain, any limitations which are pertinent to the inspection and availability of the documentation, who makes final determinations regarding questions about records, and how to obtain such determinations. Include information regarding whether, and identifying which, records must be maintained manually, electronically, or both. **Recommended** language for this component is as follows:

**To the extent that information is utilized in the performance of the resulting contract or generated as the result of it, and to the extent that information meets the definition of "Public records" as defined in section 119.011, F.S., said information is hereby declared to be and is hereby recognized by the parties to be public records and absent a provision of law or administrative rule or regulation requiring otherwise, shall be made available for inspection and copying by an interested person upon request as provided in subsection 119.01(2)(f), F.S. It is expressly understood that the successful vendor's refusal to comply with Chapter 119, F.S., shall constitute an immediate breach of the contract which results from this ITB which entitles the department to unilaterally cancel the contract agreement. The successful vendor will be required to promptly notify the department of any requests made for public records.**

**Unless a greater retention period is required by state or federal law, all documents pertaining to the program contemplated by this ITB shall be retained by the successful vendor for a period of six years after the termination of the resulting contract or longer as may be required by any renewal or extension of the contract. During the records retention period, the successful vendor agrees to furnish, when requested to do so, all documents required to be retained. Submission of such documents must be in the format determined by the department. The successful vendor shall maintain such records in whatever reasonable format is required by the department at the time, at the vendor's expense. Data files will be provided in a format readable by the department.**

**The successful vendor agrees to maintain the confidentiality of all records required by law or administrative rule to be protected from disclosure. The successful vendor further agrees to hold the department harmless from any claim or damage including reasonable attorney's fees and costs or from any fine or penalty imposed as a result of an improper disclosure by the successful vendor of confidential records whether public records or not and promises to defend the department against the same at its expense.**

**The successful vendor shall maintain all records required to be maintained pursuant to the resulting contract in such a manner as to be accessible by the department upon demand. Where required by applicable law, access by the public shall be permitted without delay.**

(21) Reports. Specify the type, frequency, form, content, and construction of any reports which the vendor is required to submit as a part of the contract. **Recommended** language for this component is as follows:

**Where the resulting contract requires the delivery of reports to the department, mere receipt by the department shall not be construed to mean or imply acceptance of those reports. It is specifically intended by the parties that acceptance of required reports shall require a separate act in writing. The department reserves the right to reject reports as incomplete, inadequate, or unacceptable according to the parameters set forth in the resulting contract. The department, at its option, may allow additional time within which the successful vendor may remedy the objections noted by the department or the department may, after having given the successful vendor a reasonable opportunity to complete, make adequate, or acceptable, such reports, declare the contract to be in default.**

Report Title	Reporting Frequency	Report Due Date	Number of copies due	DCF Office address(es) to receive reports

NOTE: Contract managers will furnish the report format and instructions to the vendor.

(22) Performance Measures. Include the department’s approved outputs and outcomes measures with their established standards. If the department has not established outputs and outcomes or standards, procurement managers and contract signers can determine which outputs, outcomes and standards are most appropriate for use in the solicitation. The outcomes and outputs must be measurable and expressed in mathematical terms (e.g., percentages, ratios, averages, units).

(23) Description of Performance Measurement Terms. Clarify performance measurement terms that are unique or possess a unique operative definition. This section may include measurement unique definitions not defined elsewhere in the contract. The sections may also include a description of how the elements relate to the performance measure or to other terms.

(24) Performance Evaluation Methodology. Include information about evaluating the performance of the vendor and the methodology for each performance measure.

(a) Clearly state the mathematical formula to be used (e.g. numerator and denominator). For each output and outcome provide a detailed description of who, when and how the performance data will be collected and processed.

(b) The following clause **must** be inserted in this section:

**Performance Measurement Statement:**

**By execution of the contract the vendor hereby acknowledges and agrees that its performance under the contract must meet the standards set forth above and will be bound by the conditions set forth below. If the vendor fails to meet these standards, the department, at its exclusive option, may allow up to six months for the vendor to achieve compliance with the standards. If the department affords the vendor an opportunity to achieve compliance, and the vendor fails to achieve compliance within the specified time frame, the department must cancel the contract in the absence of any extenuating or mitigating circumstances. The**

**existence of the extenuating or mitigating circumstances is the exclusive determination of the department.**

(25) Vendor Unique Activities. Advise the vendor of any activities, tasks, obligations, or work that are solely and exclusively the responsibility of the successful vendor, and for which, by execution of the resulting contract, the successful vendor agrees to be accountable.

(26) Coordination With Other Vendors/Entities. Instruct the vendor as to what activities, tasks, obligations, or work the successful vendor must coordinate with other entities in performing the resulting contract. Specify that the failure of other entities (e.g., subcontractors) does not relieve the successful vendor of any accountability for tasks or services, which the successful vendor is obligated to perform pursuant to the contract. There is no recommended language for this component.

(27) Department Obligations. Advise the vendor as to what support, other than monetary, the department will provide during the period of the contract, and any preconditions which the vendor must fulfill to ensure receipt of such support. There is no recommended language for this component.

(28) Department Determinations. Advise the vendor in what areas the department has exclusive authority to make determinations and of any procedures that the successful vendor must observe in obtaining required determinations.

(29) Monitoring Requirements. Generally, this section states that the vendor will be monitored in accordance with existing departmental procedure. In the event that the department's monitoring will deviate from existing procedures, this section should describe the manner in which the vendor will be monitored. That description should include, but not be limited to, specifying which records, documents, or contract elements will be used in conducting the monitoring. Contract monitoring and oversight may include audits and monitoring by the Office of Inspector General or other entities within and outside the Department. Wherever possible the department will coordinate monitoring and contract oversight efforts to minimize disruption of the vendor's operations.

d. Financial Specifications. Include instructions for the vendor regarding the renewal provision (i.e., cost for the first year of renewal and each subsequent year for which the contract can be renewed). If the ITB provides for contract renewals, the following language is **required** in the ITB:

**Contract Renewals:**

**The resulting contract may be renewed for one term not to exceed three years or for the term of the original contract, whichever period is longer. Such renewal shall be contingent upon satisfactory performance evaluations as determined by the department and be subject to the availability of funds. Any renewal shall be in writing and shall be subject to the same terms and conditions as set forth in the initial contract.**

NOTE: The dollar amount and the manner and methodology or basis by which the costs for any anticipated renewal will be calculated must be specified in the response to the ITB and in the resulting contract document. Unless provided for differently in the ITB, the statement of work and terms and conditions under which the commodities or contractual services will be provided are to remain identical to those contained in the initial term of the contract. Contract renewal provisions cannot be added to a contract after the award if the solicitation does not contain renewal information. In that case, the contract cannot be renewed and will require re-procurement.

(1) Funding Source. The specific funding sources, federal as well as state general revenue, are to be identified. If appropriate, any local matching requirements and the match percentage should be stated here. The following language is **required** if a match is required in this ITB:

**Pursuant to (source document which requires match) a match of \_\_\_\_\_ percent of \_\_\_\_\_ is required. The match requirement may be satisfied by (specify type of match). The following may not be used as match: (enter any restrictions here, e.g., cash in-kind contribution).**

(2) Invoicing and Payment of Invoices. Identify issues related to vendor payment. There is no standard language for this component. A specific statement must be developed for each ITB. The following is a list of issues to consider including:

(a) Information describing the method of payment (e.g., fixed price, cost reimbursement, etc.). Most contracts resulting from an ITB procurement will have a fixed price method of payment.

(b) Instructions regarding invoicing (billing) requirements. If program, department, or state invoice forms are to be used, provide blank copies. If vendor invoice forms are to be used, instruct the vendor to include samples in the proposal. If electronic invoicing through the Ariba Supplier Network (MyFloridaMarketPlace) is available the solicitation should reflect a clear preference for this procedure.

(c) Instructions regarding the manner in which contract costs/service units and unit cost will be displayed on invoices.

(d) Description of the documentation of contract costs/service units which must accompany invoices submitted by the vendor to the department (e.g., number of copies of each invoice).

(e) List of other special provisions pertaining to payment of invoices.

(f) Provision for adequate and timely reviews of deliverables prior to invoice approval and vendor payment. Sufficient review time should be based on deliverable complexity.

(3) Cost Bid. Instruct the vendor about any requirements that must be followed in the preparation of the cost bid, budget or rate justification. There is no component in the Instructions to Vendor's section that addresses cost bid, so any requirements that affect the preparation of the vendor's cost bid must be addressed here. There is no standard language for this component. Examples of requirements are:

(a) The local match requirement must be supported by match commitment forms from the vendor or the donor.

(b) The fixed price (hourly rate) part of the resulting contract denotes a flat fee or rate charged per service. To determine the total dollar amount of the contract that is represented by the fixed price part, the vendor is required to present hourly rates for the following positions and estimated hours:

SAMPLE:	<i>Project Manager..... 1000 hours</i>
	<i>Technical Support..... 1200 hours</i>
	<i>Data Analyst..... 800 hours</i>
	<i>Clerical/Administrative..... 800 hours</i>

(c) Explain in detail what budget/cost represents and how the information should be presented (refer to specific budget forms). This may require the vendor to submit a separate cost bid.

(4) MyFloridaMarketPlace Transaction Fee. The following clause **must** be included in the Contract Provisions section of any ITB issued by the department.

**The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.**

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

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

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

e. Instructions to Vendors.

(1) Vendor Registration in MyFloridaMarketPlace. No contracts may be awarded by any state agency to any vendor who is not registered in the MyFloridaMarketPlace eProcurement system unless exempted by Rule 60A-1.030(3), F.A. C. All vendors are responsible for submitting evidence of registration, or proof of exemption by rule from registration, with any response to an ITB.

(2) Form PUR 1001 – General Instructions to Respondents. This form, required by the Florida Department of Management Services (DMS), contains instructions explaining the solicitation process and the actions necessary to respond to a solicitation. Additional materials and guidance specific to each ITB must be included in the ITB. Vendors are not required to sign and return the PUR 1001 form with their response to the ITB. By submitting a bid, the vendor agrees to comply with all terms and conditions of the ITB. Failure to comply with all terms and conditions shall be grounds for rejecting the bid. The PUR 1001 form will be included in the Instructions to Vendors section of the ITB. The PUR 1001 form is available at the DMS website at [http://dms.myflorida.com/dms/purchasing/purchasing\\_forms\\_and\\_documents/purchasing\\_forms/](http://dms.myflorida.com/dms/purchasing/purchasing_forms_and_documents/purchasing_forms/).

(3) Title Page. Require that each copy of the bid has a title page that contains the following:

(a) ITB number;

(b) Title of the bid;

(c) Vendor's name (person, organization, firm);

(d) Name of Organization to which bid is submitted;

(e) Name, title, phone number, and address of person who can respond to inquiries regarding the bid; and,

(f) Name of the vendor's project director (if known).

(4) Required Vendor's Statements or Certifications.

(a) Acceptance of Contract Terms and Conditions. Ensure that the bid includes a mandatory signed statement indicating acceptance of the terms and conditions of provisions of service, as specified in the ITB and contained in the Standard Contract.

(b) Statement of No Involvement. The vendor should be advised that responses to a solicitation must include a signed statement indicating that neither the prospective vendor nor any person with an interest in the firm:

- had a contract that was not competitively procured to perform a feasibility study for the potential implementation of a subsequent contract, or,
- participated in the drafting of a solicitation, or,
- developed a program for future implementation dealing with the specific subject matter of this solicitation.

NOTE: A copy of the Statement of No Involvement (Appendix A) is also available on the DCF website.

(5) Trade Secrets.

(a) Trade secrets include, but are not limited to any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. A trade secret is considered to be:

- Secret;
- Of value;
- For use or in use by the business; and,
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

(b) When appropriate and applicable, use the following **required** language in the

ITB:

**The department will attempt to afford protection from disclosure of any trade secret as defined in s. 812.081, Florida Statutes (F.S.), where identified as such in the response to this ITB, to the extent permitted under s. 815.04, F.S., and Chapter 286, F.S. Any vendor or vendor acknowledges, however, that the protection afforded by s. 815.04, F.S. is incomplete, and it is hereby agreed by the vendor and the department that no right or remedy for damages arises from any disclosure by the department.**

(6) Cost of Preparation of Bid. The bid must state that the department is not liable for any costs incurred by a vendor responding to this ITB.

(7) Number of Copies Required. This section states the number of copies of the bid the department requires to be submitted with an original. It should also state that at least one copy of the bid submitted to the department must contain an original signature of an official of the vendor who is authorized to bind the vendor to their bid.

(8) How to Submit a Bid. This section gives the vendor explicit directions about how to submit a bid such as:

(a) Any bid must be received by the department by the deadlines set forth in the calendar of events.

(b) Late bids will not be accepted. The vendor may choose, and is responsible for, the method of delivery to the department except that facsimiles or electronic transmissions will not be accepted at anytime.

(c) Place only one copy of the bid in each envelope.

(d) Clearly mark the envelope "BID".

(e) Each envelope is to be sealed and addressed to: (*name and address*).

(f) The ITB may also require a separate cost bid. Instructions regarding this should be included here.

(9) Other Required Information. This section is for information not contained elsewhere in the ITB or Standard Contract.

f. Bid Rating and Bid Tabulation Sheet. Before developing rating criteria, the procurement manager and all individuals involved in the solicitation must complete a *Conflict of Interest Questionnaire* (Appendix C) available on the DCF website. Any assistance received which results in the development of rating criteria must be considered carefully. The resulting criteria must not exclude vendors or inject bias into the rating process. The bid rating criteria for an ITB requires a "yes" or "no" answer rather than requiring the subjective judgment of other solicitations. The Bid Tabulation Sheet, (PUR 7004) provides general information regarding the ITB being responded to, and simply lists the vendors (whether or not they meet all the requirements) and the cost-per-unit-of-service (fixed price) that is quoted in the bid. Bid Tabulation Sheets are available at <http://fcg.state.fl.us/fcg/centers/purchase/forms.html> or from either Contract Administration or the Purchasing Office.

(1) Description of Rating Criteria. Explains the ITB rating process and introduces the ITB Rating Sheet. There is no standard language for this subsection. A specific narrative must be developed for each ITB. See the Sample Evaluation Manual (Appendix F) for an example of mandatory and qualitative criteria.

(2) Identical or Tie Responses. Whenever two or more responses are determined to be identical, Rule 60A-1.011, F.A.C. shall apply. Advise the vendor of the department's practices in circumstances where identical or tie bids occur.

(3) ITB tabulation Methodology. Include a Bid Tabulation Sheet, which lists rating criteria and specific indicators of each criterion used to assess the degree to which the vendor's response meets the criteria in the ITB. Inclusion of an ITB rating methodology is mandatory. Criteria that were not set forth in the ITB may not be used in rating the vendor's bids. See Sample Evaluation Manual (Appendix F), for sample methods of rating bids.

g. Contract Provisions. This section of the ITB includes the Standard Contract (or a list of required contract provisions if that document is not used) and the Attachment I (if it is in existence).

(1) Standard Contract or List of Required Contract Provisions. The department's Standard Contract contains universal administrative, financial, and non-programmatic terms and conditions usually mandated by federal and state law, rules or regulations, and/or departmental policy. A copy of the department's standard contract is available at <http://ewas.dcf.state.fl.us/asc/>.

(a) Whenever the department's Standard Contract is used in contracting, it is mandatory that a copy of it be included as an attachment to the solicitation.

(b) The department's standard contract contains additional general contract terms and conditions required by the department for all vendors.

(c) If it is determined that the terms and conditions provided in the standard contract are not adequate for the development of a specific solicitation, the contract administrator and local legal counsel should be consulted for advice. No attempt should be made to use legal terms and conditions without administrative and legal consultation. The Standard Contract must not be modified without prior written approval from ASC. (See CFOP 75-2, Chapter 7-3 for instructions.)

(2) Attachment I. If the services to be provided are covered under an existing Program Specific Model Attachment I (PSMAI), a copy of the PSMAI should be included in the ITB. If the services to be provided are not covered under an existing PSMAI, the procurement manager must draft the Attachment I in order to identify any remaining contract terms and conditions to be included in the ITB. Essentially, the ITB format, if successfully developed, becomes the Attachment I for the contract.

(3) General Contract Conditions – PUR 1000. This form contains standard contract terms and conditions that will apply to the contract that results from the ITB. In the event of any conflict between the PUR 1000 form and any terms or conditions in the Standard Contract or Attachment I, the terms and conditions in the contract shall take precedence over the conflicting term in the PUR 1000. However, if the conflicting term in the PUR 1000 is required by any section of the Florida Statutes, the term contained in the PUR 1000 shall take precedence.

## 2-6. The ITB Development Process.

a. Determination. The determination to use the ITB is reviewed by local legal counsel and contract administration.

b. Development of the ITB. The procurement manager develops the ITB. The procurement manager may choose to develop the ITB with the assistance of a Development Team.

c. Advertising of the ITB. The procurement manager releases the ITB to all vendors simultaneously, soliciting replies from vendors. The ITB must be advertised on the Department of Management Services (DMS) MyFlorida.com website for at least 10 days before the date set for the receipt of replies unless it is determined in writing that a shorter time period is necessary to avoid harming the interests of the State.

d. Solicitation Conference. Vendors may be invited to attend a Solicitation Conference with the department in accordance with the guidelines published in the ITB.

e. Receipt of Bids. The procurement manager receives all bids. As bids are received and witnessed by a designated department employee at the location stated in the ITB, each must be stamped or marked (if practical) indicating the date and time of receipt. All bids must be logged-in,

showing the vendor's name, address and the date and time of receipt. Since many bids are too large (often in boxes) to place in the procurement file, it is crucial that an accurate log be kept to record the receipt of all bids.

f. Notice of Intent to Award. The contract shall be awarded to the responsive, responsible vendor with the lowest price. Notice of Intent to Award must be electronically posted on the Florida Communities Network. After decision by the Secretary or designee, the procurement manager electronically posts the Intent to Award a Contract. The Intent to Award a Contract may be protested at this time. If the solicitation tabulation method is used, the solicitation tabulation must also show beginning and ending posting time and date. If there are no protests, the process continues. In the event of a protest, the protest must be resolved before continuing the procurement process unless delay would pose an immediate and serious danger to public health, safety, and welfare. No amendments or supplements to the bid will be accepted after receipt of the bids.

NOTE: The notice must be posted for 72 hours (not including Saturdays, Sundays, or State holidays). Since weekends and official State holidays are not counted in this 72-hour period, the notice should be posted on either Monday or Tuesday of a week in which there are no official State holidays.

g. Documentation. The procurement file must contain a concise statement that explains the basis for vendor selection and that sets forth the deliverables and price, pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the state.

## Chapter 3

## THE REQUEST FOR PROPOSAL (RFP)

3-1. Purpose. This chapter offers a format and guidance for developing the RFP. Each section details the minimum requirements, and offers the recommended or required language that must appear in the RFP.

3-2. References. Sections 20.19, 120.57, 287.001, 287.012, 287.057, and 402.73 F.S., and CFOP 75-2.

3-3. The RFP. The RFP is the competitive solicitation used for the acquisition of commodities or contractual services when it has been determined that the ITB is not appropriate. Written documentation consisting of a statement such as, “the department does not intend to award this contract primarily on the basis of price,” and reasons why an RFP is the appropriate procurement type to use, must be placed in the procurement manager’s file. If an agency determines in writing that the use of an Invitation to Bid is not practicable, contractual services may be procured by RFP. An RFP must be made available simultaneously to all vendors by posting on the MyFlorida.com website, and must include a statement of the commodities or contractual services sought; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the proposal, which shall include, but need not be limited to, price. The relative importance of price and other evaluation criteria shall be indicated. If the agency contemplates renewal of the resulting contract, that fact must be stated in the request for proposals. The proposal must include the price for each year for which the contract may be renewed.

3-4. Outline of the RFP. The following outline lists the information that should be contained in the RFP. The format of the RFP and specific contents may be modified depending upon the commodities or service being solicited, the anticipated dollar amount of the contract, and the funding source.

**RFP Outline: (Title)**

- a. Introduction
  - (1) Statement of Need
  - (2) Statement of Purpose
  - (3) Term of Agreement
  - (4) Definitions
- b. RFP Process
  - (1) Contact Person
  - (2) Posting
  - (3) Vendor Disqualification
  - (4) Limitations on Contacting Departmental Personnel
  - (5) Schedule of Events and Deadlines
  - (6) Notice of Intent to Submit a Proposal
  - (7) Solicitation Conference
  - (8) Inquiries
  - (9) Withdrawal of Proposal
  - (10) Acceptance/Rejection of Proposals
  - (11) Notice of Contract Award
  - (12) Sureties – Proposal Guarantee
  - (13) Sureties – Performance Bond
  - (14) Protests and Disputes
- c. Minimum Programmatic Requirements
  - (1) General Statement
  - (2) Programmatic Authority

- (3) Scope of Service
- (4) Major Program Goals
- (5) Client General Description
- (6) Client Eligibility
- (7) Client Determination
- (8) Client Contract Limits
- (9) Task List
- (10) Task Limits
- (11) Staffing Levels
- (12) Professional Qualifications
- (13) Staffing Changes
- (14) Subcontractors
- (15) Service Delivery Location
- (16) Service Times
- (17) Changes in Location
- (18) Equipment
- (19) Service Unit
- (20) Records and Documentation
- (21) Reports
- (22) Performance Measures
- (23) Description of Performance Measurement Terms
- (24) Performance Evaluation Methodology
- (25) Vendor Unique Activities
- (26) Coordination with Other Vendors/Entities
- (27) Department Obligations
- (28) Department Determinations
- (29) Monitoring Requirements
  
- d. Financial Specifications
  - (1) Funding Source
  - (2) Allowable Costs
  - (3) Invoicing and Payment of Invoices
  - (4) Cost Proposal
  
- e. Instructions to Vendors
  - (1) Vendor Registration in MyFloridaMarketPlace
  - (2) General Instructions to Respondents, PUR 1001
  - (3) Title Page
  - (4) Response to Introduction
  - (5) Response to RFP Mandatory Requirements
  - (6) Description of Approach to Performing Tasks Required by Task List in c. (9)
  - (7) Description of Staffing and Organizational Capacity Required by Staffing Levels and Professional Qualifications above
  - (8) Description of Financial Capability
  - (9) Vendors' Cross Reference Table
  - (10) Required Vendors' Statements or Certifications
  - (11) Trade Secrets
  - (12) Cost of Preparation of Proposal
  - (13) Number of Copies Required
  - (14) How to Submit a Proposal
  - (15) Other Required Information
  
- f. Proposal Evaluation Criteria and Rating Sheet
  - (1) Description of Evaluation Criteria
  - (2) Identical or Tie Responses
  - (3) RFP Rating Methodology
  
- g. Contract Provisions
  - (1) Standard Contract or List of Required Contract Provisions
  - (2) Attachment I

- |   |
|---|
| (3) General Contract Conditions, PUR 1000<br>(4) MyFloridaMarketPlace Transaction Fee |
|---|

### 3-5. Required Components of the RFP.

a. Introduction. Give background and an overview indicating why the project is needed, and describe the purpose of the project.

(1) Statement of Need. Describe the circumstances which contribute to the necessity of the project and, in general terms, what the department is trying to buy. Inclusion of this section in the RFP eliminates the necessity of a separate determination of need statement to be placed in the procurement manager's file.

(2) Statement of Purpose. Briefly describe what the project must accomplish. This statement must relate to the statement of need.

(3) Term of Agreement. Describe the term of the contract that will result from this solicitation. If renewal is contemplated it should be stated here.

(4) Definitions. Provide a list of definitions for important contract terms. Include definitions for all terms that are unfamiliar, unusual, or unique to the RFP, including those for contract terminology, program or service specific terminology, standards definitions, performance definitions, and acronyms (if necessary). See ASC website for glossary of terms that may be provided upon request to the vendor by the procurement manager.

b. RFP Process. Provide details concerning the RFP process including the schedule of events and deadlines.

(1) Contact Person. List the department employee responsible for the project; include his/her organizational unit, address, and phone number. This person is also responsible for conducting the Solicitation Conference (if held) and answering any inquiries (no faxes or emails) concerning the RFP. To maintain consistency in the department's responses to inquiries, it is important to designate only one individual as the contact person (i.e., procurement manager, contract manager, or designee).

(2) Posting. This component details the posting process with regard to the solicitation. The electronic posting on the MyFlorida.com website is the official posting for the purpose of calculating the time for the submission of protests. To allow the department the option to physically as well as electronically post notices, the language outlined in Chapter 6 must be included in the solicitation.

(3) Vendor Disqualification. Advise the vendor of the department's practice concerning unsatisfactory prior performance or other concerns with a vendor's qualifications to enter into the proposal process.

(4) Limitations on Contacting Departmental Personnel. Instruct the vendor of the restrictions and penalties associated with contacting department personnel other than the contact person during the RFP process.

(5) Schedule of Events and Deadlines. Develop a schedule containing dates of all relevant deadlines for proposals prior to execution of the contract. This schedule must be included in all RFPs to ensure vendor compliance. While the schedule must include at least the activities listed below, the sequential order may vary from RFP to RFP. The Solicitation Conference can be excluded from the schedule if no conference is to be held (the Solicitation Conference is not mandatory). See Table A below for a sample.

**Table A**

<b>ACTIVITY</b>	<b>DUE DATE</b>	<b>TIME</b>	<b>ADDRESS</b>
Advertise/Release RFP on MyFlorida.com			
Receive Notice of Intent to Submit a Proposal			
Hold Solicitation Conference			
Receive all inquiries			
Respond to inquiries			
Receive all sealed proposals			
Open proposals			
Evaluation Team Initial Meeting			
Evaluation Team Debriefing			
Post the Notice of Intent to Award			
Anticipated effective date of contract			

(6) Notice of Intent to Submit a Proposal. Vendors who are interested in responding to an RFP must send (if required in the RFP) to the department a Notice of Intent to Submit a Proposal by the date and time specified in that document. Interested vendors must check the DMS website at [http://fc.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fc.state.fl.us/owa_vbs/owa/vbs_main_menu) for the following:

- (a) Responses to written inquiries; and,
- (b) Changes to the solicitation.

(7) Solicitation Conference. The purpose of the Solicitation Conference is to review the RFP with interested vendors so that areas of misunderstanding or ambiguity are clarified.

(a) A Solicitation Conference may be held at the procurement manager's discretion. The time and place of the conference must be included in the Schedule of Events and Deadlines published in the RFP.

(b) A Solicitation Conference is a public meeting and should be noticed on the MyFlorida.com website and conducted professionally. Vendors shall be accorded fair and equal treatment.

(c) The procurement manager shall ensure that all names, titles, and groups or firms attending the conference are recorded.

(d) An agenda of items to be discussed, such as clarification of the statement of work provisions, billing and payment procedures, reporting requirements, and allowable cost determinations should be developed and distributed at the Solicitation Conference. If needed, the

agenda may be simply to answer vendors' questions. Only responses posted on the MyFlorida.com website are to be considered official department responses by the vendor. The procurement manager should present the items listed in the agenda.

(e) After the initial presentation, the floor should be open for questions. The procurement manager should ensure that either notes are taken or the conference is recorded so that the events of the conference are documented and a summary is written.

(f) Attendance at a solicitation conference is not mandatory unless required in the RFP. A proposal may be submitted and accepted from an individual or firm that has not requested the RFP or indicated prior interest, providing there is no contradictory wording in the RFP.

(g) The procurement manager should involve representation from Legal and Contract Administration in the Solicitation Conference.

(h) The following language **must** be included in all solicitations where solicitation conferences are anticipated:

**Small Businesses, Certified Minority and Women's Business Enterprises are encouraged to participate in any conferences, pre-solicitation, or pre-bid meetings which are scheduled.**

(i) If a Solicitation conference is to be held, it should be listed in the Schedule of Events and Deadlines, and should state that attendance at the conference is/is not (*choose one*) a prerequisite for acceptance of proposals from individuals or firms.

(8) Written Inquiries. This component of the RFP assists vendors with making inquiries. A specific statement must be developed for each RFP, which indicates that: (a) only written inquiries may be submitted (no faxes or emails will be accepted); (b) the date and time of the deadline (after which no inquiries will be accepted) for acceptance of inquiry; and (c) name, title, and address of the contact person. In addition, the following language is **required** for use in this component of the RFP if the department intends to entertain questions/inquiries:

**Copies of the responses to all inquiries, and clarifications and/or addenda if made to the RFP, will be made available through electronic posting on the MyFlorida.com website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu).**

(9) Withdrawal of Proposal. Advise the vendor of the time limit restrictions for withdrawing a submitted proposal. The following language is **required** for use in this component:

**A written request for withdrawal, signed by the vendor, may be considered if received by the department within 72 hours after the proposal opening time and date indicated in the Schedule of Events and Deadlines. A request received in accordance with this provision may be granted by the department upon proof of the impossibility to perform based upon an obvious error on the part of the vendor.**

(10) Acceptance/Rejection of Proposals and Waiver of Minor Irregularities. The RFP **must** contain the following **required** statements:

**Proposal Deadline**

**Replies must be received by the department no later than (enter time date, and place as indicated in the preceding deadline schedule). Any reply submitted shall remain a valid offer for at least 90 days after the proposal submission date. No**

**changes, modifications, or additions to the proposals submitted after the deadline for proposal opening has passed will be accepted by or be binding on the department.**

**Receipt Statement**

**Proposals not received at either the specified place, or by the specified date and time, or both, will be rejected and returned unopened to the vendor by the department. The department will retain one unopened original for use in the event of a dispute.**

**Right to Reject or to Waive Minor Irregularities Statement**

**The department reserves the right to reject any and all replies or to waive minor irregularities when to do so would be in the best interest of the State of Florida. Minor irregularity is defined as a variation from the Request for Proposal terms and conditions, which does not affect the price of the proposal, or give the vendor an advantage or benefit not enjoyed by other vendors, or does not adversely impact the interest of the department. At its option, the department may correct minor irregularities but is under no obligation to do so.**

(11) Notice of Contract Award. The Contract Award shall be made to the vendor whose proposal is determined in writing by the Secretary or designee to be the most advantageous to the State, taking into consideration the evaluation results including cost and other criteria set forth in the RFP.

(a) **Required** language for this section is as follows:

**The contract shall be awarded to the responsible and responsive vendor whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The contract file shall contain documentation supporting the basis on which the award is made.**

(b) Posting a Notice of Award statement is required. It is acceptable to post a Notice of Award statement at the procurement office in addition to the mandatory posting on the MyFlorida.com website. The Notice must be posted on the My Florida.com website for 72 hours (Excluding Saturday, Sunday and state holidays). If no written notice of protest is filed during this posting, the intended contract award becomes final. This method clearly establishes the beginning of the 72- hour period in which vendors are permitted to submit protests. Since weekends and official State holidays are not counted in this 72-hour period, it is recommended that the posting date of the Notice of Award be on a Monday or Tuesday to allow for ease in calculating the 72 hours over actual work days.

(12) Sureties – Proposal Guarantee. For high risk procurements, as determined by program administrators in consultation with local legal offices, this component of the RFP is included to instruct the vendor of the requirement to submit a proposal guarantee with the proposal. The reply guarantee provides a measure of assurance to the department that the vendor is willing to be held to the terms and conditions of the RFP and will enter into a contract if an award is made.

(13) Sureties – Performance Bond. For high risk procurements, as determined by program administrators in consultation with local legal office, this component of the RFP will advise the vendor of the requirement for the vendor to submit a performance bond upon execution of a contract if the vendor becomes the selected vendor. The performance bond provides a measure of assurance to the department that the vendor will perform as agreed to in the contract terms and conditions, and will

assist it in defraying the cost of re-procurement if needed. Consult your local legal office for guidance in the use of the sureties clause.

(14) Protests and Disputes. The following clauses are **required** in the posting on the MyFlorida.com website of all department decisions pertaining to competitive procurement for the solicitation of services:

**Protests and Disputes**

**Any person who is adversely affected by the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract shall file a notice of protest in writing within 72 hours (Saturdays, Sundays and State holidays excluded) after the posting on the MyFlorida.com website of the solicitation or decision or intended decision. FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN SECTION 120.57(3), F.S., SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES.**

**When protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of the department's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, the department shall provide the estimated contract amount to the protestor within 72 hours (excluding Saturdays, Sundays and state holidays) after the notice of protest has been filed. The estimated contract amount is not subject to protest pursuant to subsection 120.57(3) F. S. The bond shall be conditioned upon the payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought and in any subsequent appellate court proceeding. FAILURE TO FILE THE PROPER BOND AT THE TIME OF FILING THE FORMAL WRITTEN PROTEST WILL RESULT IN A REJECTION OF THE PROTEST. In lieu of a bond the department may accept a cashiers check, official bank check, or money order in the amount of the bond.**

NOTE: Factors which can be taken into consideration when determining the cost of the contract include, but are not limited to, the following:

- The price of previous or existing contracts for similar contractual services;
- The amount appropriated by the Legislature for the contract; and,
- The fair market value of similar contractual services.

c. Minimum Programmatic Requirements. Add details to the Statement of Work, including what services are to be provided; specific eligibility requirements to be used in determining who can be served; concrete objectives that are to be accomplished; and any other special requirements that affect how the program will operate. These minimum programmatic requirements will become the Attachment I upon contract award.

(1) General Statement. Provide a general description of the services to be performed under the contract and what will be expected of the vendor. There is no suggested language for this component.

(2) Authority for the Solicitation. Provide the authority, e.g., statutory reference, Florida Administrative Code (F.A.C.) rule number, Code of Federal Regulation (CFR) number, or other source of authority under which the program operates and is administered. **Recommended** language for this component is as follows:

**The successful vendor must comply with all applicable Federal and state laws, regulations, action transmittals, program instructions, review guides and similar documentation.**

(3) Scope of Service. Provide a general description of the limits or boundaries within which the services will be delivered, and the amount and frequency of service that is expected. There is no suggested language for this component.

(4) Major Program Goals. Describe the major goals of the program which the contract will support. Describe any long range or broad objectives which are pertinent, and, as appropriate, describe the department's ultimate purpose for contracting for the services to be performed. The department's outcome measures for the services provided will help identify the societal change that is a major goal of the program. There is no suggested language for this component.

**Note: Subparagraphs (5), (6), (7) and (8) below pertain to client services contracts only. The subparagraphs may be renumbered accordingly.**

(5) Client General Description. Provide a general description of the clients who will receive services under the contract including, as appropriate, the estimated size(s) of the client population(s) to be served. There is no suggested language for this component.

(6) Client Eligibility. Provide specific criteria or client characteristics which will be used to determine whether a client will receive the contracted services. Such criteria may include, but are not limited to, age, sex, medical condition, economic status, previous history, referral source, potential prognosis, or city/county of residence. There is no suggested language for this component.

(7) Client Determination. Provide any specific client selection information necessary for the vendor, and describe any information that will be necessary to determine client eligibility. Include information such as specific types of exclusions, specific types of inclusions, how eligibility questions are to be resolved, and who has the authority to make final determinations. **Required** language for this component is as follows:

**In the event of any dispute regarding the eligibility of clients, the determination made by the department is final and binding on all parties.**

(8) Client Contract Limits. Advise the vendor of any limitations that may affect or will limit the number of clients to be served, the quantity or extent of service available to individual clients, or the monetary value of the contract. After including the limitations, the following language is **recommended**:

**The above number of clients to be served is a planning estimate only and the department reserves the right to alter or adjust the locations and the number of affected clients by any amount.**

(9) Task List. Provide a list of specific tasks, e.g., counseling, transportation, day care, case management, etc., which will be performed under the contract along with a description of the task, and any specific elements which are included or must be considered in task performance. It is critical that this component of the RFP be well developed. Include all minimum requirements for each task to be performed. There is no recommended language for this component.

(10) Task Limits. Provide a description of the limits within which the tasks must be performed. These limits may be programmatic, medical, financial, legal, or geographic. If there are no specific task limits, the following language is **recommended**:

**The successful vendor is not authorized by the department to perform any tasks related to the project other than those described in the Task List without the express written consent of the department.**

(11) Staffing Levels. Specify the number and type of staff members the successful vendor is required to have available to perform the work. **Recommended** language for this component is as follows:

**Each vendor shall include their proposed staffing for technical, administrative, and clerical support. The successful vendor shall maintain an adequate administrative organizational structure and support staff sufficient to discharge its contractual responsibilities. In the event the department determines that the successful vendor's staffing levels do not conform to those promised in the proposal, it shall advise the successful vendor in writing and the successful vendor shall have 30 days to remedy the identified staffing deficiencies.**

**The successful vendor shall replace, on the project, any employee whose continued presence would be detrimental to the success of the project as determined by the department with an employee of equal or superior qualifications. The department's contract manager will exercise exclusive judgment in this matter.**

(12) Professional Qualifications. As required, specify what professional licenses, certifications or experience the vendor's professional staff members are required to possess or obtain. There is no recommended language for this component.

(13) Staffing Changes. Specify under what conditions the vendor is required, or permitted to make staffing changes, specify what approvals or notification requirements are necessary to make staffing changes, and any lead times required for notifications or approvals. **Recommended** language for this component is as follows:

**The successful vendor shall staff the project with key personnel identified in the vendor's proposal which are considered by the department to be essential to this project. Prior to substituting any of the proposed individuals the successful vendor shall notify and obtain written approval from the department of the proposed substitution. Written justification should include documentation of the circumstances requiring the changes and a list of the proposed substitutions in sufficient detail to permit evaluation of the impact on the project. The department, at its discretion, may agree to accept personnel of equal or superior qualifications in the event that circumstances necessitate the replacement of previously assigned personnel. Any such substitution shall be made only after consultation with department staff.**

(14) Subcontractors. Specify whether, and under what conditions, the vendor is permitted to use subcontractors and what approval or notification requirements are pertinent to the use of subcontractors. **Recommended** language for this component is as follows:

**The successful vendor may, only with the prior consent of the department, enter into written subcontract(s) for performance of certain of its functions under the contract. Subcontractors known at the time of proposal submission and the amount of the subcontract shall be identified in the vendor's response to this**

**Request for Proposal. The act of subcontracting shall be approved in writing by the department's Contract Manager prior to the effective date of any subcontract. No subcontract which the vendor enters into with respect to performance under the contract resulting from this Request for Proposal shall in any way relieve the vendor of any responsibility for performance of its duties. All payments to subcontractors shall be made by the vendor.**

(15) Service Delivery Location. Specify the street address, city, etc., where the services are to be delivered. If the vendor is supplying a facility or building as part of its performance under the contract, describe any specific physical or facility requirements which must be available for service delivery or client use. There is no recommended language for this component.

(16) Service Times. Specify when the services must be available, the minimum or maximum frequency of the delivery of services, any requirements for responding to emergencies or unexpected needs for service, and any information necessary to identify what constitutes service completion. There is no recommended language for this component.

(17) Changes in Location. Specify who may approve changes in location during the course of the contract, advance notification requirements to change location, and requirements for temporary arrangements which must be made in the event of location changes. **Required** language for this component is as follows:

**The successful vendor shall notify the department in writing a minimum of {insert accepted period of time} prior to making changes in location which will affect the department's ability to contact the successful vendor by telephone or facsimile transmission.**

(18) Equipment. This section of the RFP must describe any equipment which the vendor will use and which must be available for service delivery. **Recommended** language for this component is as follows:

**The selected vendor will be responsible for supplying, at its own expense, all equipment necessary to perform under, conduct and complete the contract including but not limited to computers, telephones, copier and fax machine including supplies and maintenance, as well as needed office supplies.**

**Vendors must include any consideration for costs associated with the provision of equipment in the cost proposal in response to Section \_\_\_\_.**

(19) Service Unit. Describe, specifically, what comprises a service unit, how many units, by type of service, will be provided under the contract, and if applicable, any limitations or special considerations that affect the delivery of service units. Other characteristics of the service to be provided, such as unit of measure and quantity, must also be specified here. If the quantity of service units to be provided is expected to vary throughout the life of the contract, the variables affecting the service must be described.

(20) Records and Documentation. Describe the form, content, and construction of any records or documentation which the vendor is required to maintain, any limitations which are pertinent to the inspection and availability of the documentation, who makes final determinations regarding questions about records, and how to obtain such determinations. Include information regarding whether and identifying which records must be maintained manually, electronically, or both. **Recommended** language for this component is as follows:

**To the extent that information is utilized in the performance of the resulting contract or generated as a result of it, and to the extent that information meets the**

definition of “Public records” as defined in section 119.011, F.S., said information is hereby declared to be and is hereby recognized by the parties to be a public record and absent a provision of law or administrative rule or regulation requiring otherwise, shall be made available for inspection and copying by an interested person upon request as provided in Chapter 119.01(2)(f), F.S., or otherwise. It is expressly understood that the successful vendor’s refusal to comply with Chapter 119, F.S., shall constitute an immediate breach of the contract which results from this RFP which entitles the department to unilaterally cancel the contract agreement. The successful vendor will be required to promptly notify the department of any requests made for public records.

Unless a greater retention period is required by state or federal law, all documents pertaining to the program contemplated by this Request for Proposals shall be retained by the successful vendor for a period of six years after the termination of the resulting contract or longer as may be required by any renewal or extension of the contract. During the records retention period, the successful vendor agrees to furnish, when requested to do so, all documents required to be retained. The vendor shall maintain such records in whatever reasonable format is required by the department at the time, at the vendor’s expense. Data files will be provided in a format readable by the department.

The successful vendor agrees to maintain the confidentiality of all records required by law or administrative rule to be protected from disclosure. The successful vendor further agrees to hold the department harmless from any claim or damage including reasonable attorney’s fees and costs or from any fine or penalty imposed as a result of an improper disclosure by the successful vendor of confidential records whether public records or not and promises to defend the department against the same at its expense.

The successful vendor shall maintain all records required to be maintained pursuant to the resulting contract in such a manner as to be accessible by the department upon demand. Where required by applicable law, access by the public shall be permitted without delay.

(21) Reports. Specify the type, frequency, form, content, and construction of any reports which the vendor is required to submit as a part of the contract. **Recommended** language for this component is as follows:

Where the resulting contract requires the delivery of reports to the department, mere receipt by the department shall not be construed to mean or imply acceptance of those reports. It is specifically intended by the parties that acceptance of required reports shall require a separate act in writing. The department reserves the right to reject reports as incomplete, inadequate, or unacceptable according to the parameters set forth in the resulting contract. The department, at its option, may allow additional time within which the successful vendor may remedy the objections noted by the department or the department may, after having given the successful vendor a reasonable opportunity to complete, make adequate, or acceptable, such reports, declare the contract to be in default.

Report Title	Reporting Frequency	Report Due Date	Number of copies due	DCF Office address(es) to receive reports

NOTE: Contract managers will furnish the report format and instructions to the vendor.

(22) Performance Measures. Include the department's approved outputs and outcomes measures with their established standards. If the department has not established outputs and outcomes or standards, contract originators and signers may determine the outputs, outcomes, and standards that are most appropriate for use in the contract. The outputs and outcomes must be measurable and expressed in mathematical terms (e.g. percentages, ratios, averages, units, median).

(23) Description of Performance Measurement Terms. Clarify performance measurement terms that are unique or possess a unique operative definition. This section may include measurement unique definitions not defined elsewhere in the contract. The sections may also include a description of how the elements relate to the performance measure or to the other terms.

(24) Performance Evaluation Methodology. Include information about evaluating the performance of the vendor and the evaluation methodology for each performance measure.

(a) Clearly state the mathematical formula to be used (e.g. numerator and denominator). For each output and outcome provide a detailed description of who, when and how the performance data will be collected and processed.

(b) The following clause **must** be inserted in this section:

**By execution of the contract the vendor hereby acknowledges and agrees that its performance under the contract must meet the standards set forth above and that the vendor will be bound by the conditions set forth below. If the vendor fails to meet these standards, the department, at its exclusive option, may allow up to six months for the vendor to achieve compliance with the standards. If the department affords the vendor an opportunity to achieve compliance, and the vendor fails to achieve compliance within the specified time frame, the department must cancel the contract in the absence of any extenuating or mitigating circumstances. The existence of the extenuating or mitigating circumstances is the exclusive determination of the department.**

(25) Vendor Unique Activities. Advise the vendor of any activities, tasks, obligations, or work that are solely and exclusively the responsibility of the successful vendor, and for which, by execution of the resulting contract, the successful vendor agrees to be accountable.

(26) Coordination With Other Vendors/Entities. Instruct the vendor as to what activities, tasks, obligations, or work the successful vendor must coordinate with other entities in performing the resulting contract. Specify that the failure of other entities (including subcontractors) does not relieve the successful vendor of any accountability for tasks or services that the successful vendor is obligated to perform pursuant to the contract. There is no recommended language for this component.

(27) Department Obligations. Advise the vendor as to what support, other than monetary, the department will provide during the period of the contract, and any preconditions which the vendor must fulfill to ensure receipt of such support. There is no recommended language for this component.

(28) Department Determinations. Advise the vendor in what areas the department has exclusive authority to make determinations and of any procedures that the successful vendor must observe in obtaining required determinations.

(29) Monitoring Requirements. Generally, this section states that the vendor will be monitored in accordance with existing departmental procedures.

d. Financial Specifications.

(1) Funding Source. This is a required component of an RFP. The specific funding sources, federal as well as state general revenue, are to be identified. If appropriate, any local matching requirements and the match percentage should be stated here. The following language is **recommended** if a match is required in this RFP:

**Pursuant to (source document which requires match) a match of \_\_\_\_\_ percent of \_\_\_\_\_ is required. The match requirement may be satisfied by (specify type of match). The following may not be used as match: (enter any restrictions here, e.g., cash in-kind contribution).**

(2) Allowable Costs. If the contract resulting from this RFP will be a reimbursable contract, allowable costs and appropriate cost principles should be referenced in this section. Specific references to allowable costs may be made when only a few cost elements will be funded by this contract or when the grant budget or funding source regulation allows or disallows costs normally allowable under the appropriate cost principles. Otherwise, it is suggested that appropriate cost principles be referenced. It should be noted that the cost principles applicable to a Department of Children and Families (DCF) vendor may not necessarily be the same as those applicable to the department.

Example

If the department awards a contract to a university, OMB Circular A-21 (Cost Principles for Institutions of Higher Education), not OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments) is applicable. A list of circulars (ensure that you use the latest revision date, current dates as of this publication date are specified below) containing general cost principles developed by the Federal Office of Management and Budget (OMB) to be used to determine the allowable costs of the department's sub-grantees, vendors, and subcontractors includes:

(a) Cost principles for state, local, and federally recognized Indian tribal governments: OMB Circular A-87 (May 17, 1995);

(b) Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions: OMB Circular A-21 (August 8, 2000);

(c) Cost principles for nonprofit organizations: OMB Circular A-122 (June 1, 1988);

(d) Cost principles applicable to research and development under grants and contracts with hospitals: 45 CFR, Part 74; and,

(e) There may also be program specific cost principles that must be used which are based on federal and state regulations (e.g., Chapter 65E-14, F.A.C., is used for Alcohol, Drug Abuse, and Mental Health Services contracts).

(3) Invoicing and Payment of Invoices. Identify issues related to vendor payment. There is no standard language for this component. A specific statement must be developed for each RFP. The following is a list of issues to consider including:

(a) Information describing the method of payment (e.g., fixed price, cost reimbursement, etc.).

(b) Instructions regarding invoicing (billing) requirements. If program, department, or state invoice forms are to be used, provide blank copies. If vendor invoice forms are to be used, instruct the vendor to include samples in the proposal.

(c) Instructions regarding the manner in which contract costs/service units and unit cost will be displayed on invoices.

(d) Description of the documentation of contract costs/service units which must accompany invoices submitted by the vendor to the department (e.g., number of copies of each invoice).

(e) List of other special provisions pertaining to payment of invoices.

(f) Provision for adequate and timely reviews of deliverables prior to invoice approval and vendor payment. Sufficient review time should be based on deliverable complexity.

(4) Cost Proposal. Instruct the vendor about any requirements that must be followed in the preparation of the cost proposal, budget or rate justification. This component directly relates to the evaluation criteria that address cost proposals. There is no component in the Instructions to Vendors section that addresses cost proposals, so any requirements that affect the preparation of the vendor's cost proposal must be addressed here. There is no standard language for this component. Examples of requirements are:

(a) The local match requirement must be supported by match commitment forms from the vendor or the donor.

(b) The fixed price (hourly rate) part of the resulting contract denotes a flat fee or rate charged per service. To determine the total dollar amount of the contract that is represented by the fixed price part, the vendor is required to present hourly rates for the following positions and estimated hours:

SAMPLE:

<i>Project Manager.....</i>	<i>1000 hours</i>
<i>Technical Support.....</i>	<i>1200 hours</i>
<i>Data Analyst.....</i>	<i>800 hours</i>
<i>Clerical/Administrative.....</i>	<i>800 hours</i>

(c) Explain in detail what budget/cost represent and how the information should be presented (refer to specific budget forms). This may require the vendor to submit a separate cost proposal.

(d) Include instructions for the vendor regarding the renewal provision (i.e., cost for the renewal, where applicable). If the RFP provides for contract renewals, the following language is **required** in the RFP:

**Contract Renewals**

**The resulting contract may be renewed for one term not to exceed three years or for the term of the original contract, whichever period is longer. Such renewal shall be contingent upon satisfactory performance evaluations as determined by the department and be subject to the availability of funds. Any renewal shall be in writing and shall be subject to the same terms and conditions as set forth in the initial contract.”**

NOTE: The dollar amount and the manner in which the costs for the renewal will be calculated must be specified in the response to the RFP and in the resulting contract document. Unless provided for

differently in the RFP, the Statement of Work and Terms and Conditions under which the commodities or contractual services will be provided are to remain identical to those contained in the first year of the contract. If the RFP does not contain renewal information, the contract cannot be renewed and will require re-procurement.

e. Instructions to Vendors to the RFP.

(1) Vendor Registration in MyFloridaMarketPlace. No contracts may be awarded by any state agency to any vendor who is not registered in the MyFloridaMarketPlace eProcurement System (MFMP), unless exempted by Rule 60A-1.030(3), F. A. C. All vendors are responsible for submitting evidence of registration, or proof of exemption by Rule from registration, with any response to a Request for Proposal.

(2) Form PUR 1001 – General Instructions to Respondents. This form, required by the Florida Department of Management Services (DMS), contains instructions explaining the solicitation process and the actions necessary to respond to a solicitation. Additional materials and guidance specific to each RFP must be included in the RFP. Vendors are not required to sign and return the PUR 1001 form with their response to the RFP. By submitting a bid, the vendor agrees to comply with all terms and conditions of the RFP. Failure to comply with all terms and conditions shall be grounds for rejecting the bid. The PUR 1001 form will be included in the Instructions to Vendors section of the RFP. The PUR 1001 form is available at the DMS website at [http://dms.myflorida.com/dms/purchasing/purchasing\\_forms\\_and\\_documents/purchasing\\_forms/](http://dms.myflorida.com/dms/purchasing/purchasing_forms_and_documents/purchasing_forms/).

(3) Title Page. Ensure that each copy of the proposal has a title page that contains the following:

(a) RFP number (if required);

(b) Title of the proposal;

(c) Vendor's name (person, organization, firm);

(d) Name of Organization to which proposal is submitted;

(e) Name, title, phone number, and address of person who can respond to inquiries regarding the proposal; and,

(f) Name of the vendor's project director (if known).

(4) Response to Introduction. Include a brief discussion, which evidences the vendor's understanding of the purpose of the project as presented in the RFP.

(5) Response to RFP Mandatory Criteria. List all mandatory criteria on the ratings sheet, requiring "yes" or "no" responses and indicate your response. Mandatory Criteria may not be waived as minor irregularities.

(6) Description of Approach to Performing Required Tasks. Develop clear and complete instructions describing the service or project tasks required in the RFP. There is no standard language for this component. However, since this is the most important section of the vendor's response with respect to program/project content and service delivery, it is important to prepare this section carefully. This is intended to show the vendor's comprehension of the tasks identified in paragraph 3-5c(9) along with their proposed approach to accomplishing those tasks.

(7) Description of Staffing and Organizational Capacity Required by Staffing Levels and Professional Qualifications. Instruct the vendor to provide information about their staffing and organizational ability to complete the project. Specific instructions must be developed for each RFP.

(8) Description of Financial Capability. Instruct the vendor to provide information about their financial capabilities for undertaking the project. Required financial information may include, but not be limited to, submission of applicable financial statements, documentation of vendor's financial resources and Federal income tax returns. Specific instructions must be developed for each RFP.

(9) Vendors' Cross Reference Table. Instruct the vendor that in order to assist in the development of a responsive proposal, and to facilitate proposal evaluation by the department, the vendor is required to provide a table, which cross references the contents of their proposal with the contents of the RFP. There is no specified or standard format for this table. However, the following sample is provided as a suggested format (see Table B below):

Table B

RFP / PROPOSAL CROSS-REFERENCE TABLE						
RFP				PROPOSAL		
PAGE #	SECT/ PAR	SUBJECT	MANDATORY CRITERIA	SUBJECT	PAGE #	SECT/ PAR
17	5.2	TITLE PAGE				
17	5.3	RESPONSE TO INTRO				

(10) Required Vendors' Statements or Certifications.

(a) Acceptance of Contract Terms and Conditions. Ensure that the proposal includes a mandatory signed statement indicating acceptance of the terms and conditions of provisions of service, as specified in the RFP and contained in the Standard Contract. This signed statement may be included in the Attachment I.

(b) Statement of No Involvement. The vendor should be advised that responses to a solicitation must include a signed statement indicating that neither the prospective vendor nor any person with an interest in the firm:

- had a contract that was not competitively procured to perform a feasibility study for the potential implementation of a subsequent contract; or,
- participated in the drafting of a solicitation; or,
- developed a program for future implementation dealing with the specific subject matter of this solicitation.

NOTE: A copy of the Statement of No Involvement (Appendix A) is also available on the DCF website.

(11) Trade Secrets. When appropriate and applicable, use the following **required** language in the RFP:

**The department will attempt to afford protection from disclosure to any trade secret as defined in s. 812.081, Florida Statutes (F.S.), where identified as such in the response to this RFP, to the extent permitted under s. 815.04, F.S., and Chapter 286, F.S. Any vendor or vendor acknowledges, however, that the protection afforded by s. 815.04, F.S. is incomplete, and it is hereby agreed by the**

**vendor and the department that no right or remedy for damages arises from any disclosure.**

(12) Cost of Preparation of Proposal. The proposal must state that the department is not liable for any costs incurred by a vendor responding to this RFP.

(13) Number of Copies Required. This section states the number of copies of the proposal the department requires to be submitted with an original. It should also state that at least one copy of the proposal submitted to the department must contain an original signature of an official of the vendor agency who is authorized to bind the vendor to their proposal.

(14) How to Submit a Proposal. This section gives the vendor explicit directions about how to submit a proposal, such as:

(a) Any proposal must be received by the department by the deadlines set forth in the calendar of events.

(b) Late proposals will not be accepted. The vendor may choose, and is responsible for, the method of delivery to the department except that facsimiles or electronic transmissions will not be accepted at anytime,

(c) Place only one copy of the proposal in each envelope.

(d) Clearly mark the envelope "PROPOSAL".

(e) Each envelope is to be sealed and addressed to: (*name and address*).

(f) The RFP may also require a separate cost proposal. Instructions regarding this should be included here.

(15) Other Required Information. Information that is required, but not addressed elsewhere in the RFP can be included here. A renewal provision is one example of information which can be included in this section. If the RFP provides for contract renewals, the following language is **required** in the RFP:

**Contract Renewal: This contract may be renewed for one term not to exceed three years or for the term of the original contract, whichever period is longer. Such renewal shall be made by mutual agreement and shall be contingent upon satisfactory performance evaluations as determined by the department and shall be subject to the availability of funds. Any renewal shall be in writing and shall be subject to the same terms and conditions as set forth in the initial contract.**

NOTE: The dollar amount and the manner in which the costs for the renewal will be calculated must be specified in the response to the RFP and in the resulting contract document. Unless provided for differently in the RFP, the statement of work and terms and conditions under which the contractual services will be provided are to remain identical to those contained in the initial term of the contract. If the RFP does not contain renewal information, the contract cannot be renewed and will require re-procurement.

f. Proposal Evaluation Criteria and Rating Sheet. Before developing evaluation criteria, the procurement manager and all individuals involved in the solicitation must complete a *Conflict of Interest Questionnaire* available on the DCF website. Any assistance received which results in the development of evaluation criteria must be considered carefully if the resulting criteria might exclude vendors or inject bias into the evaluation process.

(1) Description of Evaluation Criteria. Explains the RFP evaluation process and introduces the RFP Rating Sheet. There is no standard language for this subsection. A specific narrative must be developed for each RFP.

(2) Identical or Tie Responses. Whenever two or more responses are determined to be identical, Rule 60A-1.011 F.A.C. shall apply. Advise the vendor of the department's practices in circumstances where identical or tie proposals occur.

(3) RFP Rating Methodology. Include an RFP Rating Sheet, which lists evaluation criteria and specific indicators of each criterion used to assess the degree to which the vendor's response meets the criteria in the RFP. Inclusion of an RFP rating methodology is mandatory.

g. Contract Provisions.

(1) Standard Contract or List of Required Contract Provisions. The department's Standard Contract contains universal administrative, financial, and non-programmatic terms and conditions usually mandated by federal and state law, rules or regulations, and/or departmental policy. Whenever the department's Standard Contract is used in contracting, it is mandatory that a copy of it be included as an attachment to the solicitation referencing as follows:

(a) The department's standard contract contains additional general contract terms and conditions required by the department for all vendors.

(b) If it is determined that the terms and conditions provided in the standard contract are not adequate for the development of a specific solicitation, the contract administrator and local legal counsel should be consulted for advice. No attempt should be made to use legal terms and conditions without administrative and legal consultation. A copy of the department's standard contract is available at <http://ewas.dcf.state.fl.us/asc/>.

(2) Attachment I. If the services to be provided are covered under an existing Program Specific Model Attachment I (PSMAI), a copy of the PSMAI should be included in the RFP. If the services to be provided are not covered under an existing PSMAI, you must draft the Attachment I in order to identify any remaining contract terms and conditions to be included in the RFP. Essentially, the RFP format, if successfully developed, becomes the Attachment I for the contract.

(3) General Contract Conditions – PUR 1000. This form contains standard contract terms and conditions that will apply to the contract that results from the RFP. In the event of any conflict between the PUR 1000 form and any terms or conditions in the Standard Contract or Attachment I, the terms and conditions in the contract shall take precedence over the conflicting term in the PUR 1000. However, if the conflicting term in the PUR 1000 is required by any section of the Florida Statutes, the term contained in the PUR 1000 shall take precedence.

(4) MyFloridaMarketPlace Transaction Fee (MFMP). The following clause is **required** to be included in the Contract Provisions section of any RFP issued by the department.

**The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.**

**For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the**

**Transaction Fee pursuant to Rule 60A-1.031(2), Florida Administrative Code. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.**

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

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

### 3-6. The RFP Development Process.

- a. Determination. The RFP is the competitive solicitation process used for acquisition of contractual services when it has been determined that the use of the ITB process is not appropriate. Include written documentation consisting of a statement such as "the department does not wish to award this contract primarily on the basis of price," stating the reasons the ITB process was not used. The determination to use the RFP is reviewed by local legal counsel and Contract Administration.
- b. Development of the RFP. Development of the RFP is a collaborative process, bringing together the requirements of the variety of functions/disciplines within the program. A procurement manager is appointed by the contract signer to oversee the development of the RFP. A development team may be appointed to assist in the development of the solicitation.
- c. Advertising the RFP. The procurement manager advertises the RFP on the Department of Management Services (DMS) MyFlorida.com website for at least 10 days before the date set for the receipt of proposals. A shorter time period may be used if the contract signer determines in writing that less time is necessary to avoid harming the interests of the State. For instructions on how to advertise the RFP, see Chapter 6 of this operating procedure.

(1) Vendor Lists. DMS maintains a listing of vendors eligible to participate in state procurements. For further information pertaining to the SPURS vendor lists, how the lists are used, maintenance of the lists, and removal or suspension from the lists, visit the DMS website at <http://fcn.state.fl.us/fcn/centers/purchase/vhbid.html>.

(2) Notice of Availability. A Notice of Availability (with information identical to that in the MyFlorida.com website advertisement) must be sent to the Office of Supplier Diversity (at the previously listed address). A Notice of Availability should also be sent to the following to encourage small business participation:

*Florida Small Business Development Center  
Procurement System  
University of West Florida, Building 8  
Pensacola, FL 32514*

**Simultaneous notification gives vendors equal time to prepare responses to department solicitations and protects against charges of favoritism.**

d. Notice of Intent to Submit a Proposal. Vendors who are interested in responding to the RFP may send to the department, a Notice of Intent to Submit a Proposal by the date and time specified in the solicitation. Unless specifically stated in the RFP, a Notice of Intent is not mandatory. Providing there is no contradictory wording in the RFP, a proposal may still be submitted and accepted from an individual or firm who has not requested or indicated prior interest in the RFP.

(1) Further information (clarification, addenda, etc.) regarding the RFP will be sent to individuals or firms who respond with Notices of Intent or those who request, in writing, copies of the RFP, and/or copies of information regarding the solicitation.

(2) All Notices of Intent must be placed in the procurement file. When a vendor submits a Notice of Intent, it allows the department a means of notifying interested vendors (if so specified in the solicitation) with copies of written responses to questions resulting in clarification or addenda to the RFP. All notices pertaining to the RFP including responses to questions resulting in clarification or addenda to the solicitation will be electronically posted on the MyFlorida.com website.

e. Solicitation Conference. Vendors may be invited to attend a Solicitation Conference with the department in accordance with the guidelines published in the RFP.

f. Inquiries – Receipt and Response. See Chapter 6 for information on handling Inquiries and Correspondence.

g. Receipt of Proposals. The procurement manager receives all proposals. Each proposal is logged in and witnessed by a designated department employee. As proposals are received, each must be stamped or marked (if practical) indicating the date and time of receipt. All proposals must be logged-in, showing the vendor's name, address and the date and time of receipt. Since many proposals are too large (often in boxes) to place in the procurement file, it is crucial that an accurate log be kept to record the receipt of all proposals.

h. Opening of Proposals. The procurement manager reviews to determine which vendors meet the Mandatory Screening Criteria (published in the RFP) and which do not.

i. Initial Meeting of the Evaluation Team. See Chapter 7 for information on conducting the Initial Meeting of the Evaluation Team.

j. Debriefing Meeting of the Evaluation Team. For guidelines on conducting evaluations of proposals, please see Chapter 7 of this operating procedure.

k. Awarding the Contract. The contract shall be awarded to the responsible and responsive vendor whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The contract file shall contain documentation supporting the basis on which the award is made. The procurement manager is responsible for compiling the results of the evaluation team's efforts and forwarding them to the Secretary, contract signer, or designee for final contract award decision.

l. Posting of the Intent to Award a Contract. After decision by the Secretary or designee, the procurement manager electronically posts the Intent to Award a Contract on the MyFlorida.com website. The Intent to Award a Contract may be protested at this time. If there are no protests, the process continues.

(1) The method for posting the Notice of Intended Award must be specified in the solicitation. The notice must be posted on the MyFlorida.com website for 72 hours (not including Saturdays, Sundays, or State holidays). Since weekends are not counted in this 72-hour period, the

notice should be posted on either Monday or Tuesday of a week in which there are no official State holidays.

(2) If no written notice of protest is filed during this posting period, the intended contract award becomes final.

(3) In the event of a protest, the protest must be resolved before continuing the procurement process unless delay would pose an immediate and serious danger to public health, safety, and welfare. No amendments or supplements to the proposals will be accepted after the department announces the intent to award, to reject all proposals or to withdraw the solicitation.

m. Documentation. The contract file must contain a concise statement that explains the basis for vendor selection and that sets forth the deliverables and price, pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the state.

## Chapter 4

## THE INVITATION TO NEGOTIATE (ITN)

4-1. Purpose. This chapter offers an easy to follow format for developing the ITN including identification of the minimum requirements, and offers the recommended or required language for the ITN.

4-2. References. Sections 20.19, 120.57, 287.001, 287.012, 287.057, and 402.73 F.S., and CFOP 75-2.

4-3. The ITN. The ITN is a competitive solicitation that provides an alternative to the RFP and ITB. It is a formal document that offers a brief overview of the services the department is seeking.

a. The ITN solicitation includes legislatively mandated requirements, a general outline of services being sought, the basic procedures for submitting vendor replies, and the negotiation and evaluation methodologies used to determine contract award. The department was granted authority by s. 287.057, F.S., to use the ITN when an RFP or ITB will not provide an acceptable process for the department to obtain services.

b. The decision to use the ITN to procure a particular service must be documented in writing in the procurement manager's file and must be based on one or more of the "When to Use an ITN" circumstances listed below. The determination to use the ITN is reviewed by local legal counsel and approved in writing by the Secretary or designee (Appendix E, Request for Approval to Use an Invitation to Negotiate). This form is also available on the ASC website.

c. While this operating procedure outlines a two-phase process for the ITN, there may be conditions under which a one-phase process is more appropriate. The Zone Contract Director may authorize a one-phase process for an ITN.

(1) When to use an ITN. The ITN is a useful solicitation option in the following circumstances:

(a) When the scope of the work for the service cannot be accurately and completely defined by the department. This often occurs for purchases of rapidly emerging technology, outsourcing, or complex services.

(b) When the services can be provided in several different ways, any of which could be acceptable. This often occurs for purchases of emerging technologies or complex services.

(c) When vendor qualifications and the quality of the services to be delivered can be considered more important than the contract price.

(d) When the replies may contain a different level of services than that requested, requiring negotiation to reduce price or services to match available contract funds or increase price to meet a higher level of service provision.

(2) When NOT to use an ITN. The ITN may not be used as a solicitation option in the following circumstances:

(a) When the RFP or ITB has historically been used as the procurement type, and has been successful in competitively selecting the vendor.

(b) When a statute or rule stipulates the RFP or ITB as the means of procurement.

(c) When the department wishes to purchase a generally available commodity or a general service that is known to be available from multiple vendors.

4-4. Outline of the ITN.

<b>ITN Outline: (Title)</b>	
<b><u>Phase I Solicitation of Replies</u></b>	
a.	Introduction <ol style="list-style-type: none"> <li>(1) Statement of Need</li> <li>(2) Statement of Purpose</li> <li>(3) Term of Contract</li> <li>(4) Definitions</li> </ol>
b.	ITN Process <ol style="list-style-type: none"> <li>(1) Contact Person</li> <li>(2) Posting</li> <li>(3) Vendor Disqualification</li> <li>(4) Limitations on Contacting Departmental Personnel</li> <li>(5) Schedule of Events and Deadlines</li> <li>(6) Notice of Intent to Submit a Reply</li> <li>(7) Solicitation Conference</li> <li>(8) Written Inquiries</li> <li>(9) Withdrawal of Reply</li> <li>(10) Receipt and Rejection of Replies or Waiver of Minor Irregularities</li> <li>(11) Notice of Short List</li> <li>(12) Protests and Disputes</li> <li>(13) Negotiation Methodology</li> </ol>
c.	Qualification Requirements <ol style="list-style-type: none"> <li>(1) General Description of Services</li> <li>(2) Qualifications Required to Perform Services</li> <li>(3) Financial Stability</li> <li>(4) Organizational Capacity</li> <li>(5) Performance Measurement Requirements</li> </ol>
d.	Instructions to Potential Vendors <ol style="list-style-type: none"> <li>(1) Vendor Registration in MyFloridaMarketPlace</li> <li>(2) General Instructions to Respondents, PUR 1001</li> <li>(3) Title Page</li> <li>(4) Reply to Introduction</li> <li>(5) Reply to ITN Initial Screening Criteria</li> <li>(6) Description of Staffing and Organizational Capacity Required by Qualifications Requirements</li> <li>(7) Description of Financial Capability</li> <li>(8) Vendors' Cross Reference Table</li> <li>(9) Required Vendors' Statements or Certifications</li> <li>(10) Trade Secrets</li> <li>(11) Cost of Preparation of Reply</li> <li>(12) Number of Copies Required</li> <li>(13) How to Submit a Reply</li> <li>(14) Other Required Information</li> </ol>
e.	Evaluation Methodology, Criteria and Rating Sheet <ol style="list-style-type: none"> <li>(1) ITN Rating Methodology</li> <li>(2) Description of Evaluation Criteria</li> </ol>

(3) Rating Sheet

f. Contract Provisions

- (1) Standard Contract or List of Contract Provisions
- (2) Attachment I
- (3) General Contract Conditions – PUR 1000
- (4) MyFloridaMarketPlace (MFMP) Transaction Fee
- (5) Other Attachments

**Phase II Request for Detailed Proposals (RDP)**

a. Introduction

- (1) Statement of Need
- (2) Statement of Purpose
- (3) Term of Contract
- (4) Definitions

b. ITN Process

- (1) Contact Person
- (2) Limitations on Contacting Departmental Personnel
- (3) Posting
- (4) Schedule of Events and Deadlines
- (5) Solicitation Conference
- (6) Written Inquiries
- (7) Withdrawal of Detailed Proposals
- (8) Receipt and Rejection of Replies and Waiver of Minor Irregularities
- (9) Negotiation Methodology
- (10) Negotiations
- (11) Notice of Intent to Award Contract
- (12) Protests and Disputes

c. Request for Detailed Proposals (RDP)

- (1) Service or Program Requirements
- (2) Performance Measurement Requirements
- (3) Allowable Costs
- (4) Match Requirements

d. Instructions to Vendors

- (1) Title Page
- (2) Reply to ITN Initial Screening Criteria
- (3) Description of Service Proposal
- (4) Cost Proposal
- (5) Vendors' Cross Reference Table
- (6) Trade Secrets
- (7) Cost of Preparation of Reply
- (8) Sureties – Reply Guarantee
- (9) Sureties – Performance Bond
- (10) Number of Copies Required
- (11) How to Submit a Detailed Reply
- (12) Other Required Information

e. Evaluation Methodology, Criteria and Rating Sheet

- (1) ITN Rating Methodology
- (2) Description of Evaluation Criteria
- (3) Rating Sheet

f. Contract Provisions

- (1) Standard Contract or List of Required Contract Provisions
- (2) Attachment I
- (3) General Contract Conditions, PUR 1000

- (4) MyFloridaMarketPlace Transaction Fee
- (5) Other Attachments

#### 4-5. Required Components of the ITN.

**Phase I – Solicitation of Replies:** In Phase I of the ITN process the procurement manager advertises the ITN and distributes via the MyFlorida.com website the Solicitation of Replies to interested vendors. The procurement manager determines which vendors meet the initial screening criteria (published in this phase of the ITN). A short list of vendors who meet the initial screening criteria is created. Vendors on the short list will be asked to respond to a Request for Detailed Proposals (Phase II).

a. Introduction. This section is similar to the RFP and ITB as it provides an overview of why the department needs the services being sought.

(1) Statement of Need. A statement explaining in general terms the circumstances that contribute to the necessity of the project, and what the department is trying to buy.

(2) Statement of Purpose. A written statement explaining the reason for undertaking the project and describing how the project will fulfill the needs of the department.

(3) Term of Contract. The duration of the contract that will result from this solicitation. If renewal is contemplated it should be stated here.

(4) Definitions. A list of contract terminology/program or service specific definitions. Definitions for all terms that are unfamiliar, unusual, or unique to the ITN, including those for contract terminology, program or service specific terminology, standards definitions, performance definitions and acronyms should be included. See the ASC website for glossary of terms which may be provided upon request to the vendor by the procurement manager.

b. ITN Process. This section provides details concerning the ITN process including the schedule of events and deadlines that must be adhered to.

(1) Contact Person. The department employee responsible for the project. This employee may be the procurement manager or a designee, and may also be the individual who will conduct the negotiations. The employee who serves as the contact must have his/her name, organizational unit, address, and phone numbers listed in this section of the ITN.

(2) Posting. See Chapter 6, Advertising and Distribution.

(3) Vendor Disqualification. This advises the vendor of the department's practice concerning unsatisfactory prior performance or the vendor's qualifications to enter into the negotiation process.

(4) Limitations on Contacting Department Personnel. A statement to instruct the vendors concerning the restrictions and penalties associated with contacting department personnel other than the contact person during the ITN process.

(5) Schedule of Events and Deadlines. A schedule containing dates of all relevant deadlines for replies and to alert vendors to the significant milestones in the procurement process prior to execution of the contract. While the schedule must include at least the activities listed below, the sequential order may vary from ITN to ITN.

(a) Date and time solicitation is to be released and electronically posted.

(b) Date and time by which the Notice of Intent to Submit a Reply must be submitted.

(c) Place, date and time of the prospective Solicitation Conference, if any. The Solicitation Conference can be excluded from the schedule if no Solicitation Conference is to be held.

(d) Date and time after which no inquiries will be accepted.

(e) Date and time by which responses to any written inquiries will be electronically posted by the department.

(f) Place, date and time by which all replies to the ITN must be received and opened. (Replies must be accepted up until the deadline set for receipt set out in this schedule. After that date and time they must be rejected as untimely.)

(g) Place, dates and times for any scheduled meetings involving members of the evaluation team.

(h) Date and time on which the agency decision identifying the individuals or organizations who made the short list will be electronically posted.

(i) Anticipated contract negotiation date.

(j) Anticipated date and time of electronic posting of the Intent to Award the Contract.

(k) Anticipated contract beginning date.

(6) Notice of Intent to Submit a Reply. Vendors who are interested in responding to an ITN must send (if required in the ITN) to the department a Notice of Intent to Submit a Reply by the date and time specified in that document. Interested vendors must check the DMS website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs www.main menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu) for the following:

(a) Responses to written inquiries; and,

(b) Changes to the solicitation.

(7) Solicitation Conference. The purpose of the Solicitation Conference is to review the ITN with interested vendors so that areas of misunderstanding or ambiguity are clarified.

(a) A Solicitation Conference may be held at the procurement manager's discretion. The time and place of the conference must be included in the Schedule of Events and Deadlines published in the ITN.

(b) If a Solicitation Conference is held, it is a public meeting and should be noticed on the MyFlorida.com website and conducted professionally. All vendors shall be accorded fair and equal treatment.

(c) The procurement manager shall ensure that all names, titles, and groups or firms attending the conference are recorded.

(d) An agenda of items to be discussed, such as clarification of the statement of work provisions, billing and payment procedures, reporting requirements, and allowable cost

determinations should be developed and distributed at the Solicitation Conference. If needed, the agenda may be simply to answer vendors' questions. Only responses posted on the MyFlorida.com website are to be considered official department responses by the vendor. The procurement manager should present the items listed in the agenda.

(e) After the initial presentation, the floor should be open for questions. The procurement manager shall ensure that either notes are taken or the conference recorded so that the events of the conference are documented and a summary is written.

(f) Attendance at a solicitation conference by vendors is not mandatory unless required in the ITN. A proposal may still be submitted and accepted from an individual or firm that has not requested the ITN or indicated prior interest, providing there is no contradictory wording in the ITN.

(g) The procurement manager should involve representation from Legal and Contract Administration in the Solicitation Conference.

(h) The following language **must** be included in all solicitations where solicitation conferences are anticipated:

**Small Business, Certified Minority and Women's Business Enterprises are encouraged to participate in any conferences, pre-solicitation, or pre-bid meetings which are scheduled.**

(i) If a solicitation conference is to be held, it should be listed in the Schedule of Events and Deadlines, and should state that attendance at the conference is/is not (*choose one*) a prerequisite for acceptance of proposals from individuals or firms.

(8) Written Inquiries. All inquiries from vendors shall be submitted in writing, and all department responses to inquiries received shall be documented in writing and maintained in the procurement file and posted on the MyFlorida.com website. A specific statement must be developed for and included in each ITN to assist vendors when making inquiries. This statement indicates that: (a) only written inquiries may be submitted; (b) the date and time of the deadline (after which no inquiries will be accepted) for acceptance of inquiry; (c) name, title, and address of the contact person; and (d) only responses electronically posted on the MyFlorida.com website can be considered an official response from the department by the vendor. The following language is **required** for use in the ITN:

**Copies of the responses to all inquiries, and clarifications and/or addenda if made to the ITN, will be available by (date) through electronic posting at <http://fc.state.fl.us/owa/vbs/owa/vbs/www.main.menu>.**

(9) Withdrawal of Reply. This section advises the vendor of the time limit restrictions for withdrawing a submitted reply. The following language is **required**:

**A written request for withdrawal, signed by the vendor, may be considered if received by the department within 72 hours after the reply opening time and date indicated in the Schedule of Events and Deadlines. A request received in accordance with this provision may be granted by the department upon proof of the impossibility to perform based upon an obvious error on the part of those who reply.**

(10) Receipt and Rejection of Replies and Waiver of Minor Irregularities. The following statement **must** be included in the ITN to protect the best interest of the department and the state:

**Reply Deadline**

Replies must be received by the department no later than (enter time, date, and place as indicated in the proceeding deadline schedule). Any reply submitted shall remain a valid offer for at least 90 days after the reply submission date. No changes, modifications, or additions to the reply submitted (after the deadline for reply opening has passed) will be accepted by or be binding on the department.

**Receipt Statement**

Replies not received at either the specified place, or by the specified date and time, or both, will be rejected and returned unopened to the vendor by the department. The department will retain one unopened original for use in the event of a dispute.

**Right to Waive Minor Irregularities Statement**

The department reserves the right to reject any and all replies or to waive minor irregularities when to do so would be in the best interest of the State of Florida. Minor irregularity is defined as a variation from the Invitation to Negotiate terms and conditions which does not affect the price of the reply, or give the vendor an advantage or benefit not enjoyed by other vendors, or does not adversely impact the interest of the department. At its option, the department may correct minor irregularities but is under no obligation to do so whatsoever.

(11) Notice of Short List. The Notice of Short List advises the vendor of the process the department uses to electronically post the list of vendors who successfully met the evaluation criteria and will be permitted to proceed to the negotiation phase. The following language is **recommended** for use:

**Those vendors meeting the evaluation criteria will be placed on the short list that is to be posted at [http://fc.state.fl.us/owa\\_vbs/owa/vbs/www.main.menu](http://fc.state.fl.us/owa_vbs/owa/vbs/www.main.menu).**

(12) Protest or Disputes. A protest or dispute can occur with an ITN (a) when the ITN is released, (b) when the short list is posted, (c) when vendors are selected for negotiations (if applicable), and (d) when the Notice of Intent to Award is posted. The following clauses are **required** in the posting on the MyFlorida.com website of all department decisions pertaining to competitive procurement for the solicitation of services:

**Protests and Disputes**

Any person who is adversely affected by the terms, conditions and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract shall file a notice of protest in writing within 72 hours (Saturdays, Sundays and state holidays excluded) after the posting on the MyFlorida.com website of the solicitation or decision or intended decision. FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN SECTION 120.57(3), F.S., SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES.

When protesting a decision or intended decision the protestor must post a bond equal to one percent (1%) of the department's estimated contract amount. The estimated contract amount shall be based upon the contract price submitted by the protestor. If no contract price was submitted, the department shall provide the estimated contract amount to the protestor within 72 hours (excluding Saturdays,

**Sundays and state holidays) after the notice of protest has been filed. The estimated contract amount is not subject to protest pursuant to subsection 120.57(3) F. S. The bond shall be conditioned upon the payment of all costs and charges that are adjudged against the protestor in the administrative hearing in which action is brought and in any subsequent appellate court proceeding. FAILURE TO FILE THE PROPER BOND AT THE TIME OF FILING THE FORMAL WRITTEN PROTEST WILL RESULT IN A REJECTION OF THE PROTEST. In lieu of a bond the department may accept a cashiers check, official bank check, or money order in the amount of the bond.**

NOTE: Factors which can be taken into consideration when determining the cost of the contract include, but are not limited to, the following:

- The price of previous or existing contracts for similar contractual services.
- The amount appropriated by the Legislature for the contract.
- The fair market value of similar contractual services.

(13) Negotiation Methodology. The negotiation methodology must be thoroughly explained. Clearly define how the ITN procedure will work by describing all terms and conditions that the vendor must be aware of relating to the negotiation methodology.

c. Qualification Requirements.

(1) General Description of Services. A general description of the services to be performed under the contract and what will be expected of the vendor.

(2) Qualifications Required to Perform Services. A list of any qualifications required by the department to perform the services.

(3) Financial Stability. A description of the requirements that pertain to the vendor's financial stability.

(4) Organizational Capacity. A description of the requirements that pertain to the vendor's organizational capacity.

(5) Performance Measurement Requirements. A description of the requirements either established by the legislature or established by the department that relates to performance standards.

d. Instructions to Vendors to the ITN.

(1) Vendor Registration in MyFloridaMarketPlace. No contracts may be awarded by any state agency to any vendor who is not registered in the MyFloridaMarketPlace eProcurement system unless exempted by Rule 60A-1.030(3), F. A. C. All vendors must submit evidence of registration, or proof of exemption by Rule from registration, with any response to an Invitation to Negotiate.

(2) Form PUR 1001 – General Instructions to Respondents. This form, required by the Florida Department of Management Services (DMS), contains instructions explaining the solicitation process and the actions necessary to respond to a solicitation. Additional materials and guidance specific to each ITN must be included in the ITN. Vendors are not required to sign and return the PUR 1001 form with their response to the ITN. By submitting a bid, the vendor agrees to comply with all terms and conditions of the ITN. Failure to comply with all terms and conditions shall be grounds for rejecting the bid. The PUR 1001 form will be included in the Instructions to Vendors section of the ITN. The PUR 1001 form is available at the DMS website at [http://dms.myflorida.com/dms/purchasing/purchasing\\_forms\\_and\\_documents/purchasing\\_forms/](http://dms.myflorida.com/dms/purchasing/purchasing_forms_and_documents/purchasing_forms/).

(3) Title Page. Each copy of the reply should have a title page that includes:

- (a) ITN Number;
- (b) Title of the Reply;
- (c) Vendor’s Legal name (person, organization, firm);
- (d) Organization to which Reply is submitted;
- (e) Name, title, phone number, and address of person who can respond to inquiries regarding the reply; and,
- (f) Name of the vendor’s project director (if known).

(4) Reply to Introduction. A brief discussion that evidences the vendor’s understanding of the need for and purpose of the project as presented in the ITN.

(5) Reply to ITN Initial Screening Criteria. This component of the ITN alerts the vendors to the mandatory criteria that must be satisfied in the reply. Mandatory Criteria may not be waived as minor irregularities. The reply must reference the mandatory criteria listed on the Rating Sheet and should be “yes” or “no” answers.

(6) Description of Staffing and Organizational Capacity Required by Qualifications Requirements. Provide specific instructions to the vendor as to how to respond to the minimum requirements related to staffing and organizational capacity.

(7) Description of Financial Capability. Instruct the vendor to provide information about their financial capabilities for undertaking the project. Required financial information may include, but not be limited to, submission of applicable financial statements, documentation of vendor’s financial resources and Federal income tax returns. Specific instructions must be developed for each ITN.

(8) Vendors’ Cross-Reference Table. This required table cross-references the contents of their reply with the contents of the ITN. It assists the vendor in its development of a responsive reply and facilitates reply evaluation by the department. There is no specified or standard format for this table, however, the following example is provided as a suggested format:

ITN				REPLY		
Page(s)	Sect/Par	Subject	Mandatory?	Subject	Page(s)	Sect/Par
17	1.d.(2)	Title Page				
17	1.d.(3)	Reply to Intro				

NOTE: To ensure inclusion of all applicable items of the ITN, you are encouraged to “set-up” the cross-reference table and complete the ITN side of the table.

(9) Required Vendors’ Statements or Certifications. This component provides instruction as to the required statements and certifications. Examples include the Conflict of Interest Statement, Statement of No Involvement, Drug Free Workplace, Agreement with Contract Terms and Conditions, and are typically included as an appendix to the ITN.

(10) Trade Secrets. Where there is reason to believe that trade secrets may be included, the following language is required in the ITN:

**The department will attempt to afford protection from disclosure of any trade secret as defined in section 812.081, Florida Statutes (F.S.), where identified as such in the response to this ITN, to the extent permitted under section 815.04, F.S., and Chapter 286, F.S. Any vendor acknowledges, however, that the protection afforded by section 815.04, F.S. is incomplete, and it is hereby agreed by the vendor and the department that no right or remedy for damages arises from any disclosure.**

(11) Cost of Preparation of Reply. This component must state that the department is not liable for any costs incurred by a vendor responding to this ITN.

(12) Number of Copies Required. State the number of copies of the reply the department requires to be submitted with an original. State that at least one copy of the reply submitted to the department must contain an original signature of an official of the vendor who is authorized to bind the vendor to their reply.

(13) How to Submit a Detailed Reply. This section will include a series of statements offering guidance for the submission of replies. (NOTE: The specific time, date, and place for submitting replies must be the same as what is listed in the Schedule of Events and Deadlines.) The ITN **must** contain the following statement:

**Replies not received at either the specified place or by the specified date and time, will be rejected and returned unopened to the vendor by the department. The department will retain one unopened original for use in the event of a dispute.**

**No changes, modifications, or additions to the replies submitted after the submission deadline for the reply opening has passed will be accepted by or be binding on the department.**

**Any reply submitted in response to the department's Invitation to Negotiate shall remain a valid offer for at least 90 days.**

**Any reply must be received by the department by the deadlines set forth in the Schedule of Events and Deadlines. Late replies will not be accepted. Vendors may choose, and be responsible for, the method of delivery to the department, except that facsimile or electronic transmissions will not be accepted at any time.**

**Place only one original or one copy of the reply in each envelope. Clearly mark the envelope REPLY for ITN # \_\_\_ and whether it is an original or a copy.**

**NOTE: Each envelope must be sealed and addressed to (*enter appropriate name and address*). The original must be marked as such.**

(14) Other Required Information. Any other information required by the ITN not provided in the preceding paragraphs.

e. Evaluation Methodology, Criteria and Rating Sheet.

(1) ITN Rating Methodology. This section is **required**. The ITN must completely describe how the replies will be screened and evaluated. Any terms and conditions that the vendor must be aware of relating to the method of evaluation must be clearly defined in this section.

(2) Description of Evaluation Criteria. Describe in detail the criteria that will be used to evaluate the ITN.

(3) Rating Sheet. The document that will be used by the evaluation team to rate the replies of the vendors must be included in the ITN. The Rating Sheet will include all Initial Screening Criteria and the Evaluation Criteria.

f. Contract Provisions.

(1) Standard Contract or List of Required Contract Provisions. All contract terms and conditions must be included in the ITN. The department's Standard Contract contains universal administrative, financial, and non-programmatic terms and conditions usually mandated by federal and state law, rules or regulations, and/or departmental policy. The Standard Contract should be included as an attachment to the ITN. If services to be provided are covered under an existing Program (or District) Specific Model Attachment I, a blank copy of the Program Specific Model Attachment I should be included in the ITN.

(2) Attachment I. If services to be provided are not covered under an existing Program (District) Specific Model Attachment I, it will be necessary to draft the Attachment I in order to identify remaining contract terms and conditions to be included in the ITN.

(3) General Contract Conditions - PUR 1000. This form contains standard contract terms and conditions that will apply to the contract that results from the ITN. In the event of any conflict between the PUR 1000 form and any terms or conditions in the Standard Contract or Attachment I, the terms and conditions in the contract shall take precedence over the conflicting term in the PUR 1000. However, if the conflicting term in the PUR 1000 is required by any section of the Florida Statutes, the term contained in the PUR 1000 shall take precedence.

(4) MyFloridaMarketPlace (MFMP) Transaction Fee. The following clause **must** be included in the Contract Provisions section of any ITN issued by the department.

**MyFloridaMarketPlace Transaction Fee. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.**

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

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

**Failure to comply with these requirements shall constitute grounds for declaring the vendor in default and recovering procurement costs from the vendor in**

**addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

(5) Other Attachments. Any other attachments required by the ITN.

4-5. Required Components of the ITN (continued).

**Phase II – Request for Detailed Proposals (RDP)**: In Phase II of the ITN process the procurement manager develops and releases a Request for Detailed Proposals to vendors on the short list (developed in Phase I). After the responses to the RDP have been evaluated and scored negotiations may begin with the vendors on the short list. The negotiations will be conducted in accordance with the negotiation methodology published in the ITN. (Much of the following information is the same as in Phase I.)

a. Introduction. This section provides background for the project and an overview of why the department needs the services being sought.

(1) Statement of Need. Same as Phase I.

(2) Statement of Purpose. Same as Phase I. A brief statement of the department's purpose for seeking the services.

(3) Term of Contract. Same as Phase I.

(4) Definitions. Same as Phase I.

b. ITN Process.

(1) Contact Person. Same as Phase I.

(2) Limitations on Contacting Departmental Personnel. This section provides information to inform the vendor of the restrictions and penalties associated with contacting department personnel other than the contact person during the ITN process.

(3) Posting. The electronic posting on the MyFlorida.com website is the official posting for the purpose of calculating the window for the submission of protests. See Chapter 6, Advertising and Distribution, for required language.

(4) Schedule of Events and Deadlines. The schedule contains dates of all relevant deadlines for replies prior to execution of the contract. The schedule must be included in all ITNs to ensure vendor compliance. While the schedule must include at least the activities listed below, the sequential order may vary from ITN to ITN. The Solicitation Conference can be excluded from the schedule if no prospective Solicitation Conference is to be held.

(a) Date and time the solicitation is to be released and electronically advertised on the MyFlorida.com website.

(b) Place, date, and time of the prospective Solicitation Conference.

(c) Date and time after which no inquiries will be accepted.

(d) Date and time by which responses to any written inquiries will be electronically posted by the department.

(e) Place, date, and time by which all responses to the ITN must be received and opened. Replies must be accepted up until the deadline set for receipt set out in this schedule. After that date and time they must be rejected as untimely.

(f) Places, dates, and times for any scheduled meetings involving members of the evaluation team.

(g) Anticipated contract negotiation dates.

(h) Anticipated date and time of electronic posting of the Intent to Award the Contract.

(i) Anticipated contract beginning and ending dates.

(5) Solicitation Conference. Same as Phase I.

(6) Written Inquiries. A specific statement must be developed for each ITN that indicates that:

(a) Only written inquiries may be submitted, no faxes or emails will be accepted;

(b) The date and time of the deadline after which no inquiries will be accepted; and,

(c) Name, title and address of the contact person. In addition, the following language is **recommended** for use:

**Copies of the responses to all inquiries, and clarifications and/or addenda if made to the ITN, will be made available by (date) through electronic posting at [http://fcn.state.fl.us/owa\\_vbs www.main menu](http://fcn.state.fl.us/owa_vbs_main_menu).**

(7) Withdrawal of Detailed Proposals. Same as Phase I.

(8) Receipt and Rejection of Replies and Waiver of Minor Irregularities. Same as Phase I.

(9) Negotiation Methodology. This subsection must clearly define how the ITN procedure will work by describing all terms and conditions that the vendor must be aware of relating to the negotiation methodology. It is mandatory that the negotiation methodology be explained thoroughly.

(10) Negotiations. Negotiations must be conducted according to the Negotiation Methodology that has been established and published in the ITN solicitation. Negotiations between the department and vendors may start with any or all of the vendors on the short list (either simultaneously or sequentially, according to the methodology that is published in the ITN). After the expiration of the 72-hour posting period of the short list, if no timely protests are received, or after the resolution of any formal protest received, the department may begin negotiations with the vendors on the short list. All negotiations must be based on the methodology published in the ITN and noticed on the MyFlorida.com website. If satisfactory agreement cannot be reached with any of the vendors on the short list, the contract signer or designee must decide whether or not to issue a re-solicitation. See tips for developing negotiation strategies in the procurement section of the DCF/ASC website at <http://www.dcf.state.fl.us>

(11) Notice of Intent to Award Contract. This section explains how the notice of intent to award contract is to be made.

(a) **Required** language for this section is:

**The agency shall award the contract to the responsible and responsive vendor that the agency determines will provide the best value to the state. The contract file must contain a short plain statement that explains the basis for vendor selection and that sets forth the vendor's deliverables and price, pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the state.**

(b) Posting a notice of award statement is required. The notice shall be posted on the MyFlorida.com website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu).

(c) The notice must be posted on the MyFlorida.com website for 72 hours (3 working days). If no written notice of protest is filed during this posting (3 working days), the intended contract award becomes final. This method clearly establishes the beginning of the 72-hour period in which vendors are permitted to submit protests. Since weekends and official State holidays are not counted in this 72-hour period, the notice should be posted on either Monday or Tuesday of a week in which there are no State holidays.

(12) Protests and Disputes. Same as Phase I. The required clauses must also be included in Request for Detailed Proposals Phase of the ITN to protect the best interests of the department and the State of Florida in the event of a protest or dispute.

c. Request for Detailed Proposals (RDP). The RDP may allow for the vendor to propose one or more alternative scope(s) of services. This section details what services are to be provided, specific eligibility requirements to be used in determining who can be served, concrete objectives to be accomplished, and any other special requirements that affect how the program will operate. The program and service requirements are very general, as the negotiating process will include clarifications.

(1) Service or Program Requirements. If appropriate, service or program requirements should be included in the RDP.

(2) Performance Measurement Requirements. If purchasing a client service, the department's approved performance standards for the service should be included. If the department has not established approved standards, contract originators and signers may determine the standards that are most appropriate for use in the contract. The standards must be objectively measurable using at least one of the following: percentages, ratios, frequency rates, averages, and/or units.

(3) Allowable Costs. If the contract resulting from this ITN will be a reimbursable contract, allowable costs and appropriate cost principles should be referenced in this section. Specific references to allowable costs may be made when only a few cost elements will be funded by this contract or when the grant budget or funding source regulation allows or disallows costs normally allowable under the appropriate cost principles. Otherwise, it is suggested that appropriate cost principles be referenced. It should be noted that the cost principles applicable to the Department of Children and Families (DCF) vendor may not necessarily be the same as those applicable to the department. For example, if the department awards a contract to a university, OMB Circular A-21 (Cost Principles for Institutions of Higher Education), not OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments) is applicable. A list of circulars (use the latest revision date) containing general cost principles developed by the Federal Office of Management and Budget (OMB) to be used to determine the allowability of costs of the department's vendors, and subcontractors includes:

(a) Cost principles for state, local and federally recognized Indian tribal governments: OMB Circular A-8;

(b) Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions: OMB Circular A-21;

(c) Cost principles for nonprofit organizations: OMB Circular A-122;

(d) Cost principles for commercial organizations other than hospitals: 48 CFR Part 31; and,

(e) There may also be program specific cost principles that must be used which are based on federal and state regulations (e.g., Chapter 65E-14, F.A.C., is used for Substance Abuse and Mental Health Services contracts).

(4) Match Requirements. If applicable, all match requirements must be explained in the RDP, and responded to in the detailed reply. The local match requirement must be supported by match commitment forms from the vendor or the donor.

d. Instructions to Vendors.

(1) Title Page. Each copy of the reply should have a title page. The title page should contain the following information:

(a) ITN number;

(b) Title of the reply;

(c) Vendor's Legal Name (person, organization, firm);

(d) Organization to which reply is submitted;

(e) Name, title, phone number, and address of person who can respond to inquiries regarding the reply; and,

(f) Name of the vendor's project director (if known).

(2) Reply to ITN Initial Screening Criteria. This component of the ITN alerts the vendor to the mandatory criteria that must be satisfied in the reply. Mandatory Criteria may not be waived as minor irregularities. The reply must reference the mandatory criteria listed on the Rating Sheet and will require "yes" or "no" answers.

(3) Description of Service Proposal. This is the most important component of the vendor's response with respect to program content and service delivery. There is no standard language for this component. Clear and complete instructions must be developed for each ITN.

(4) Cost Proposal. This component of the ITN instructs the vendors who reply to the ITN about any requirements that must be followed in the preparation of the cost proposal, budget or rate justification. This component directly relates to the evaluation criteria that address cost proposals. There is no component in the Instructions to the Vendor section that addresses cost proposals, so any requirements that affect the preparation of the vendor's cost proposal must be addressed here. There is no standard language for this component. Examples of requirements are:

(a) The fixed price (hourly rate) part of the resulting contract denotes a flat fee or rate charged per service. To determine the total dollar amount of the contract that is represented by the fixed price part, the vendor is required to present hourly rates for the following positions and estimated hours.

Project Manager .....	1000 hours
Technical Support .....	1200 hours
Data Analyst.....	800 hours
Clerical/Administrative.....	800 hours

(b) Explain in detail what budget/cost to present and how the information should be presented (refer to specific budget forms). This may require the vendor to submit a separate cost proposal.

(5) Vendors' Cross-Reference Table. Same as Phase I.

(6) Trade Secrets. Same as Phase I.

(7) Cost of Preparation of Reply. Same as Phase I.

(8) Sureties – Reply Guarantee. For high risk procurements, as determined by program administrators in consultation with local legal offices, this component of the ITN is included to instruct the vendor of the requirement that the vendor submit a reply guarantee with the reply. The reply guarantee provides a measure of assurance to the department that the vendor is willing to be held to the terms and conditions of the ITN and will enter into a contract if an award is made.

(9) Sureties – Performance Bond. For high risk procurements, as determined by program administrators in consultation with local legal offices, this component of the ITN is included to advise the vendor of the requirement that the vendor submit a performance bond upon execution of a contract if the vendor becomes the selected vendor. The performance bond provides a measure of assurance to the department that the vendor will perform as agreed in the contract terms and conditions and will assist the department in defraying the cost of re-procurement if needed. Consult your local legal office for guidance in the use of the sureties clause.

(10) Number of Copies Required. Same as Phase I.

(11) How to Submit a Detailed Reply. Same as Phase I.

(12) Other Required Information. Information that is required, but not addressed elsewhere in the ITN can be included here. A renewal provision is one example of information which can be included in this section. If the ITN provides for contract renewals, the following language is **required** in the ITN:

**Contract Renewal: This contract may be renewed for one term not to exceed three years or for the term of the original contract, whichever period is longer. Such renewal shall be made by mutual agreement and shall be contingent upon satisfactory performance evaluations as determined by the department and shall be subject to the availability of funds. Any renewal shall be in writing and shall be subject to the same terms and conditions as set forth in the initial contract.**

NOTE: The dollar amount and the manner in which the costs for the renewal will be calculated must be specified in the reply to the ITN and in the resulting contract document. Unless provided for differently in the ITN, the statement of work and terms and conditions under which the contractual services will be

provided are to remain identical to those contained in the initial term of the contract. If the ITN does not contain renewal information, the contract cannot be renewed and will require re-procurement.

e. Evaluation Methodology, Criteria and Rating Sheet.

(1) ITN Rating Methodology. This part of the ITN is **required**. The ITN must completely describe how the replies will be screened and the detailed replies evaluated.

(2) Description of Evaluation Criteria. Describe in detail the methodology that will be used to evaluate the ITN, spelling out in detail all criteria to be used to evaluate the reply.

(3) Rating Sheet. The document that will be used by the evaluation team to rate the replies of the vendors must be included in the ITN. The Rating Sheet will include all Initial Screening Criteria and the Evaluation Criteria.

f. Contract Provisions.

(1) Standard Contract or List of Required Contract Provisions. The department's Standard Contract contains universal administrative, financial, and non-programmatic terms and conditions usually mandated by federal and state law, rules or regulations, and/or departmental policy.

(a) Whenever the department's Standard Contract is used in contracting, it is **required** that a copy of it be included as an attachment to the solicitation referencing as follows:

**The department's standard contract contains additional general contract terms and conditions required by the department for all vendors.**

(b) If it is determined that the terms and conditions provided in the standard contract are not adequate for the development of a specific solicitation, the contract administrator and local legal counsel should be consulted for advice. No attempt should be made to use legal terms and conditions without administrative and legal consultation. A copy of the department's standard contract is available at <http://ewas.dcf.state.fl.us/asc/>.

(2) Attachment I. If the services to be provided are covered under an existing Program Specific Model Attachment I (PSMAI), a copy of the PSMAI should be included in the ITN. If the services to be provided are not covered under an existing PSMAI, you must draft the Attachment I in order to identify any remaining contract terms and conditions to be included in the ITN.

(3) General Contract Conditions - PUR 1000. This form contains standard contract terms and conditions that will apply to the contract that results from the ITN. In the event of any conflict between the PUR 1000 form and any terms or conditions in the Standard Contract or Attachment I, the terms and conditions in the contract shall take precedence over the conflicting term in the PUR 1000. However, if the conflicting term in the PUR 1000 is required by any section of the Florida Statutes, the term contained in the PUR 1000 shall take precedence.

(4) MyFloridaMarketPlace (MFMP) Transaction Fee. The following clause must be included in the Contract Provisions section of any ITN issued by the department.

**The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which the vendor shall pay to the State.**

**For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments**

to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), Florida Administrative Code. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

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

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

(5) Other Attachments. Any other attachments required by the ITN.

#### 4-6. The ITN Development Process.

a. Determination. The determination to use the ITN is reviewed by local legal counsel and approved in writing by the Secretary or designee using the Request for Approval to Use an Invitation to Negotiate (Appendix E). Documentation of the determination to use the ITN process must be filed in the Procurement File.

b. Development of the ITN. The procurement manager develops the ITN. The procurement manager may choose to designate individuals to serve on the Development Team.

c. Posting and Release of ITN. The procurement manager releases the ITN to all vendors simultaneously, soliciting replies from vendors. The ITN must be advertised on the Department of Management Services' (DMS) MyFlorida.com website for at least 10 days before the date set for the receipt of replies unless it is determined in writing that a shorter time period is necessary to avoid harming the interests of the State.

(1) Vendor List. No contracts may be awarded by any state agency to any vendor that is not registered in MFMP, unless exempted by Rule 60A-1.030(3), F. A. C. The Procurement Manager must verify the vendor's registration status prior to award of any contract.

(2) Distribution Methodology. The ITN should be distributed as widely as reasonably possible. Written documentation of how the distribution methodology was chosen must be maintained in the procurement file. Procurement Managers must document and maintain a list of who was sent the ITN and who requested information regarding the ITN.

d. Solicitation Conference. The department may conduct a solicitation conference to clarify the requirements of the ITN. If conducted, all vendors should be invited including the vendors who received the ITN, and any that requested information about this project or otherwise demonstrated an interest in the ITN.

e. Receipt of Replies. The procurement manager receives all replies. Each reply is logged in and witnessed by a designated department employee. As replies are received, each must be stamped or marked (if practical) indicating the date and time of receipt. All replies must be logged-in, showing

the vendor's name, address and the date and time of receipt. Since many replies are too large (often in boxes) to place in the procurement file, it is crucial that an accurate log be kept to record the receipt of all replies.

f. Initial Determination. The procurement team determines which vendors meet the initial evaluation criteria (published in the Phase I of the ITN process) and which do not. A decision is made, and a short list of vendors who meet the initial screening criteria is created. Vendors on the short list will be asked to submit detailed proposals and invited to participate in negotiations to be considered for contract award.

g. Posting of Decision. The procurement manager electronically posts on the MyFlorida.com website the short list for the required 72-hours. The short list may be protested at this time. In the event of a protest, the protest must be resolved before continuing the procurement process unless delay would pose an immediate and serious danger to public health, safety, and welfare. In protests to an ITN, no amendments or supplements to the reply will be accepted after the department announces the intent to award, to reject all replies or to withdraw the solicitation. If there are no protests, the process continues. All protests must be resolved before the procurement process can continue or a re-solicitation can be considered.

h. Request for Detailed Proposals (RDP). The procurement manager provides the Request for Detailed Proposal (RDP) to vendors on the short list in Phase II of the ITN process. The RDP is issued to obtain detailed proposals from those vendors on the short list. Vendors who respond to the RDP will be considered for award (according to the Schedule of Events in the published ITN). The RDP is advertised for a minimum of the required ten (10) days.

i. Receipt and Evaluation of Detailed Proposals. The evaluation team receives the detailed proposals (along with the Certification of Assurances form) in response to the department's RDP, and begins its evaluations. The evaluation team evaluates each vendor's detailed proposal to determine the likelihood that the proposal will fulfill the department's needs. Evaluations of detailed proposals are conducted and scored according to the evaluation methodology published in the ITN.

*NOTE: For general instructions for evaluating the solicitation response, see Chapter 6 of this operating procedure.*

j. Negotiations. After the replies have been evaluated and scored, negotiations may begin with vendors on the short list at this time, according to the negotiation methodology published in the ITN. For example, negotiation meetings may begin according to a prescribed order or simultaneously, or by some other pre-determined method. The procurement manager may serve as lead negotiator or another employee may be appointed or designated to serve in this role. Negotiations continue with the vendors according to the negotiation methodology published in the ITN until an agreement is reached.

k. Negotiate Cost Proposals. After services are negotiated and finalized, cost proposals may be obtained and price(s) negotiated. The cost proposal must include the price for each year of any contemplated contract renewal.

l. Best and Final Offer. Each responsive vendor on the short list may be given an opportunity to submit their best offer from which the department will determine the best negotiated deal (one that has the best possible services which may or may not include the best price). The department's best deal will be given out to all vendors in writing. Vendors are then given another opportunity to submit their best and final offer. This Best and Final Offer process must be described in the ITN negotiation methodology.

m. Documentation of Negotiations. The procurement manager ensures that all negotiations are documented, using the *Memorandum of the Negotiations* form to certify the clarifications and final

results. The *Memorandum of the Negotiations form* (Appendix B) and is also available on the ASC website.

n. Final Determination for Contract Award. The negotiation team compiles the results that determine which vendor(s) has the negotiated proposal that is most advantageous to the State. The procurement manager sends the final results of the evaluations and negotiations to the Secretary or designee for decision.

o. Posting of the Intent to Award a Contract. After decision by the Secretary or designee, the procurement manager electronically posts the Intent to Award a Contract on the MyFlorida.com website. In the event of a protest, the protest must be resolved before awarding the contract unless delay would pose an immediate and serious danger to public health, safety, and welfare. No amendments or supplements to the detailed proposal will be accepted after the department announces the intent to award, to reject all detailed proposals or to withdraw the solicitation.

p. Documentation. The contract file must contain a concise statement that explains the basis for vendor selection and that sets forth the deliverables and price, pursuant to the contract, with an explanation of how these deliverables and price provide the best value to the State.

#### 4-7. Evaluation of Responses.

##### a. Methodologies.

(1) Evaluation Methodology. This part of the ITN is required as it must completely explain how the application and the detailed proposal (DP) will be evaluated. The ITN must clearly detail how both the application and the detailed service proposal will be evaluated, rated, and scored by the department. It is mandatory that this methodology be carefully developed and thoroughly explained to all vendors.

NOTE: Before developing initial evaluation criteria and evaluation criteria, the procurement manager, evaluation team members, and anyone else involved in the development and evaluation of criteria must complete a Conflict of Interest Questionnaire. Any assistance received which results in the development of evaluation criteria must be considered carefully if the resulting criteria might exclude vendors or inject bias into the evaluation process.

(2) Negotiation Methodology. This section must detail exactly how the negotiations will be conducted to reach a decision for contract award. For example, you may want to include an agenda for the negotiation meeting(s).

##### b. Steps in the ITN Evaluation Process.

(1) Establish the Evaluation Methodology. The evaluation methodology must be carefully planned and developed before the ITN is advertised since it forms the basis upon which the selection of vendors on the short list will be made. It determines who will or will not be permitted to continue in the ITN award process. Before any replies can be screened or detailed service proposals evaluated and scored, the evaluation methodology must be well established.

(2) Opening Responses. Procedures for the opening of responses to the ITN are outlined in Chapter 5. The main difference between the opening of responses to the ITN vs. the RFP and ITB is that the opening of the responses to the ITN involves two phases:

(a) The receipt, opening, and evaluation of the replies to create the short list of vendors to participate in negotiations and submit detailed service proposals; and,

(b) The receipt, opening, and evaluation of the detailed service proposals (in response to the RDP) to determine which vendors will be considered for contract award.

(3) Evaluating Replies. The evaluation team will evaluate the replies according to the evaluation methodology published in the ITN, creating a short list of vendors who will enter into negotiations with the department and submit a detailed proposal, and, ultimately, be considered for contract award.

(4) Create Short List. The evaluation methodology used to determine the short list of qualified vendors must be well documented and maintained in the procurement manager's file.

(5) Posting of the Short List. It is required that the list of the most qualified vendors be posted on the MyFlorida.com website before negotiations begin. The following statement is **recommended** for posting of this list:

**As a result of the department's screening of the replies received in response to ITN # \_\_\_\_\_, the department has compiled a list of vendors with whom it wishes to negotiate: \_\_\_\_\_. This list contains the vendors who have been determined to meet the basic requirements set out in the ITN, and demonstrate the potential for fulfilling the service needs of the department. It is expected that the vendor with whom the department will seek to contract will be chosen from this list.**

NOTE: If no written notice of protest is filed during this posting period, negotiations may begin with the selected vendors on the department's list, according to the method and order outlined in the negotiation methodology published in the ITN.

(6) Receipt of the Detailed Service Proposals. After the Request for Detailed Proposals is released, and detailed service proposals are received from vendors on the short list, the evaluation team evaluates each proposal according to the evaluation methodology published in the ITN. As part of the detailed service proposal, vendors must submit a Certification of Assurances (Appendix D), a signed form that certifies the vendor is able to deliver the services it promises to deliver.

c. The Negotiation Process.

(1) Negotiation Team. The Secretary or designee shall appoint teams to conduct negotiations for contracts that cost in excess of Category Four consisting of at least three persons who collectively have experience and knowledge in negotiating contracts, contract procurement and the program areas and service requirements for which contractual services are sought. In certain cases it may be necessary for members of the evaluation team to also serve on the negotiation team.

(2) Negotiations. Negotiations must be conducted according to the Negotiation Methodology that has been established, published in the ITN solicitation and posted on the MyFlorida.com website. Negotiations between the department and vendors may start with any or all of the vendors on the short list (either simultaneously or sequentially, according to the methodology that is published in the ITN). After the expiration of the 72-hour posting period of the short list, if no timely protests are received, or after the resolution of any formal protest received, the department may begin negotiations with the vendors on the short list. All negotiations must be based on the methodology published in the ITN. If satisfactory agreement cannot be reached with any of the vendors on the short list, the contract signer or designee must decide whether or not to issue a re-solicitation. See tips for developing negotiation strategies in the procurement section of the ASC website at <http://www.dcf.state.fl.us>.

(3) Documentation. Documentation of the negotiations is required. The procurement manager is responsible for ensuring that the negotiations are documented, and shall use the

Memorandum of the Negotiations to record the results of the negotiations between the department and the vendors. A record of all negotiation meetings must be maintained in the procurement manager's file. The Memorandum of the Negotiations serves as a signed and certified document to be used to record and certify the clarifications and decisions that are made during the negotiation process. The *Memorandum of the Negotiations Form* (Appendix B) is also available at <http://ewas.dcf.state.fl.us/asc/> under "Documenting Negotiations".

(4) Awarding of the Contract. Contract(s) shall be awarded to the applicant with whom the department negotiates a mutually acceptable agreement for services that is determined to be the most advantageous and provide the best value to the State. After all detailed proposals are evaluated and negotiations completed, the procurement manager shall submit the results to the Secretary or designee for final decision. Upon final decision, the Intent to Award a Contract is electronically posted for 72 hours on the MyFlorida.com website at [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu).

(a) The method of posting the Notice of Intent to Award must be specified in the solicitation. The notice must be posted on the MyFlorida.com website for 72 hours (not including Saturdays, Sundays, or State holidays). Since weekends and official State holidays are not counted in this 72-hour period, the notice should be posted on either Monday or Tuesday of a week in which there are no official State holidays.

(b) If no written notice of protest is filed during this posting period, the intended contract award becomes final.

## Chapter 5

## ADVERTISING AND DISTRIBUTION

5-1. Purpose. This chapter explains the procedures for advertising and distribution of the solicitation and notices related to the solicitation. Specifications for posting of notices and distribution protocol for solicitations are included.

5-2. References. Sections 20.19, 120.57, 286.011, 287.001, 287.012, 287.057, and 402.73, F.S., and CFOP 75-2.

5-3. Advertisement of Solicitations. The availability of all solicitations for contractual services must be electronically posted on the MyFlorida.com website. In addition to advertising using the MyFlorida.com website, it may also be appropriate to advertise the solicitation in the Florida Administrative Weekly (FAW). NOTE: Advertisement on the MyFlorida.com website (and in the FAW if desired) is also required for the re-issuance of a solicitation.

a. MyFlorida.com website Advertisements.

(1) Advertisements on the MyFlorida.com website must be posted for no less than ten (10) calendar days prior to the opening of the solicitation. The advertisement **must** include, at a minimum, the following information:

(a) Contact person (including name, complete address, phone number, email address);

(b) Solicitation number;

(c) Type of solicitation;

(d) Description of the Solicitation;

(e) Advertisement Begin Date, End Date, Opening Date, and Opening Time;

(f) Address of place of opening to include street, city, state and zip code;

(g) Commodity Code; and,

(h) Electronic copies of the solicitation and any other information related to the solicitation.

(2) To advertise on the MyFlorida.com website, contact your Contract Administration Office. To read the posted advertisement, you must have the Adobe Acrobat Reader. To access the MyFlorida.com website visit [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu).

(3) To allow the department the option to physically as well as electronically post notices, the following language must be incorporated into all solicitations in the general information section under a component entitled "Posting":

**Posting**

**All Notices, decisions and intended decisions and other matters relating to the procurement will be electronically posted on the Florida Communities Network at [http://fcn.state.fl.us/owa\\_vbs\\_main\\_menu](http://fcn.state.fl.us/owa_vbs_main_menu).**

**The department may also post the evaluation and the Notice of Intended Award or other information or notices relating to the procurement at the following location: (Place, date and time you designate) where it will remain for 72 hours thereafter. Notice is specifically given, however, that this secondary posting is not an official posting and that any protest must be filed within 72 hours of the posting on the Internet as described above. Physical posting will not extend the time permitted within which to file a protest. It is the responsibility of those submitting a response to the solicitation to obtain the results from the Internet posting in sufficient time to protect their own interests should they care to do so. Likewise, any faxed information with regard to the results of this procurement will not extend the time limits set out in s. 120.57(3), F.S.**

(4) If the Secretary determines that an unusual problem exists, and to delay the solicitation process to provide opportunity for advertising would be detrimental to the interest of the department, then the Secretary shall document such in the procurement file, including the conditions and circumstances requiring the waiver of advertising, prior to the opening of the responses to the solicitation.

b. Florida Administrative Weekly (FAW) Advertisements. In addition to advertising on the MyFlorida.com website, it may also be appropriate to advertise in the FAW. Competitive solicitations shall be advertised in the FAW for no less than ten calendar days prior to the opening of the responses to the solicitation. NOTE: While ten (10) days is the minimum length of time the solicitation must be advertised, the procurement manager may find it practical and advantageous to increase this length of advertisement, especially in the instance of a large or complex solicitation.

(1) The advertisement announcing the availability of the solicitation must consist of at least the following:

- (a) The title of the solicitation.
- (b) The purpose of the solicitation.
- (c) The contact person/procurement manager's name and address (from whom copies of the solicitation will be available).
- (d) The date and time by which the Notice of Intent to Submit a Proposal/Reply must be received.
- (e) The date and time by which all documents must be received.
- (f) The address to which responses must be submitted.
- (g) The date and time responses will be opened.
- (h) The following two statements, which read:

**Small Businesses, Certified Minority and Women's Business Enterprises are encouraged to participate in any Solicitation Conferences or pre-solicitation or pre-vendors' meetings which are scheduled.**

**The department reserves the right to reject any and all solicitations or ignore or correct minor irregularities when it is in the best interest of the state.**

c. Specifications for Advertisements in the FAW. An advertisement for the FAW must be submitted by noon Wednesday for publication on Friday of the following week. When Wednesday falls on a holiday, the advertisement must be submitted by noon on Monday, prior to the holiday.

(1) The advertisement must be submitted according to FAW standards in order to be accepted for publication. The FAW requires the submission of one original and at least one copy, either typed (10-12 pitch) or printed (12 pt) on white letter size (8 1/2" X 11") paper, double-spaced, without corrections. Margins of at least one inch shall be left at the top and bottom and on each side of the page. A 3.5" diskette containing the advertisement must also be submitted to the Department of State.

(2) Inquiries regarding advertising in the FAW may be made by calling SunCom 205-6270 or (850) 245-6270. The mailing address to use for submission of advertisements is:

*Florida Administrative Weekly  
Department of State  
R. A. Gray Building, Room 101  
5000 So. Bronough Street  
Tallahassee, Florida 32399-0250*

(3) It is recommended that, prior to submitting an advertisement to the FAW, a call be made to the FAW office, as requirements for submitting such advertisements may change without notice.

d. World Trade Organization (WTO). The types of procurements covered by the WTO Agreement are State of Florida executive branch agency purchases which exceed \$519,000 for commodities and services and \$7,311,000 for construction. The State of Florida was one of 37 states to agree to procure in accordance with the Government Procurement Agreement concluded under the auspices of the World Trade Organization (WTO). The agreement's objective is the expansion of world trade through three primary measures: 1) prohibition of discrimination based on national origin; 2) establishment of clear, transparent laws, regulations, procedures, and practices regarding government procurement; and, 3) application of competitive procedural requirements related to notification, solicitation processes, contract award, solicitation protest, etc.

(1) WTO Agreement Advertisements. The department should advertise a Notice of Planned Procurement at least annually on the MyFlorida.com website and in the FAW (if desired). If the department does not publish an annual Notice of Planned Procurement, an individual announcement, a Notice of Proposed Procurement, should be advertised on the MyFlorida.com website and in the FAW (if desired) at least 40 days in advance of the solicitation opening date. This period may be shortened to 24 days if the contract is of a recurring nature and was previously published. When a state of emergency is established, the period may be reduced to 10 days.

(2) WTO Agreement Solicitation Details. Provide the detailed solicitation to all vendors who responded to the advertisement issued above or advertise the specific procurement using a Notice of Planned Procurement. The first nine items below are required parts of a solicitation for covered procurements. It is recommended that solicitations for proposed procurements include a specific statement regarding each of the following:

(a) If the contract award will involve negotiation.

(b) The date (in text form) to start delivery or complete delivery of goods or services.

(c) Any economic or technical requirements, financial guarantees, and information required from suppliers.

(d) The address of the entity to which the solicitation should be sent and the specific location for courier delivery, if allowed, or a statement explaining that hand delivery is not accepted. The address where requests for supplementary information should be sent. Information about addresses and telephone numbers should reflect international communication standards such as dialing codes. Solicitations shall normally be submitted in writing or by mail but if other transmission methods are acceptable, they should be specifically identified.

(e) The date (in text form) and time (in 24-hour clock with reference to the time zone) for receipt of responses and the length of time during which any solicitation should be open for acceptance. It is important to be clear and specific with regard to date and time, therefore, it is wise to add detail regarding the time zone in which the soliciting district operates.

(f) A complete description of the products or services required.

(g) The criteria for awarding the contract, including all factors other than price that are to be considered in the evaluation of responses and the cost elements to be included in evaluating price responses, such as transport, insurance and inspection costs, customs duties and other import charges, taxes, and currency of payment.

(h) The terms of payment.

(i) All other terms and conditions.

(j) The process for handling solicitation challenges.

(k) The language which must be used for submission of the solicitation. Communication can be required in English and it is permissible to include a simple statement, "the solicitation response is required in English."

(l) The paper size required for all response documents. The required paper size is A 4 which is the international standard equivalent of 8.5 x 11 paper size.

(m) The person(s) authorized to be present at the opening of responses and the name/address of entity, date (in text form), time (in 24-hour clock and time zone), and place of the opening.

(n) Requirements including technical specifications, conformity certification to be fulfilled, necessary plans, drawings, and instructional materials.

(3) WTO Agreement Responses. Allow sufficient time for response to the solicitation. The WTO Agreement sets two time frames for a response. A 40-day period must be set for most solicitations. However, it is possible that under certain circumstances, solicitations, if advertised according to the requirements, can be reduced to require as little as 10 to 24 days for response.

(4) WTO Agreement Award Notices. Award Notices must be advertised on the MyFlorida.com website and in the FAW, if desired, within 72 days after the award and should contain the information listed below:

(a) Type/quantity of product or service, date of award.

(b) Name/address of winning vendor.

(c) Value of winning award or high and low offers.

(d) Means for identifying the original advertisement.

(e) Type of procedure (open, selective, or limited). Below is a sample World Trade Organization Agreement Award Notice:

**SAMPLE NOTICE OF AWARD**

This notice is being published in accordance with the guidelines set forth in the World Trade Organization Government Procurement Agreement. The State of Florida, Department of Children and Families, District \_\_\_\_\_, hereby notifies all interested parties that the contract(s) for the following item(s) has/have been awarded within the past 72 days.

<b>Notice of Award</b>					
Service	Award Date	Name/Address of Selected Vendor	Value of Award	Original Ad Date	Type of Proposal
Substance Abuse Services	March 3, 1997	AAACMHC 1234 Oak Dr. Lexington, KY	\$750,000	Jan. 6, 1997	Competitive

(5) Exemptions to the WTO Agreement. There are four specific-to-Florida exemptions. They include the following:

(a) Exemptions specifically identified under subsection 287.057(3)(f), F.S.;

(b) Prison Rehabilitation Industries and Diversified Enterprises (PRIDE);

(c) Commission for Purchase from the Blind or Other Severely Handicapped (RESPECT); and,

(d) Solicitations/purchases that involve environmentally sensitive products or services (i.e., restrictions on heavy metals in packaging).

**5-4. Distribution, Inquiries and Correspondence.**

a. Distribution Protocol for Solicitations. All solicitations must be electronically posted on the MyFlorida.com website. In order to document timely receipt for solicitations that are hand delivered to a vendor are picked up by the vendor, it is recommended that all solicitations be delivered by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery, to persons requesting copies of them. A copy of all advertisements must be maintained in the procurement file. A log must be kept to document who receives solicitations and when they are received. In addition, a copy of all formal solicitations for contractual services should be furnished in a timely manner to the Florida Small Business Development Center:

Florida Small Business Development Center Procurement System  
University of West Florida, Building 8  
Pensacola, Florida 32514

b. Written Inquiries. The department requires that only written inquiries be entertained. The purpose of accepting and responding to any written inquiries is to ensure that vendors can ask questions and that all vendors receive the same answers to help them better understand the contract requirements so that they can submit well prepared responses to the solicitation. The vendors should

be advised in the solicitation of the process for handling questions or concerns. Vendors should be advised that only responses posted on the MyFlorida.com website are to be considered official department responses to inquiries.

(1) If it becomes necessary to make any changes to the solicitation when responding to inquiries, an addendum to that document must be electronically posted on the MyFlorida.com website and also sent by the U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery to all persons or firms who returned the Notice of Intent to Submit a Solicitation (if applicable) and to other interested persons who requested, in writing, copies of information distributed regarding the solicitation. This modification becomes a legal part of the solicitation.

(2) If changes necessitate delaying the solicitation opening date in order to allow sufficient time for responses, this should be accomplished through an addendum which requires electronic posting on the MyFlorida.com website. Late or improper notification to the vendors could give cause for a re-solicitation.

(3) The procurement manager is responsible for designating a department employee to receive the written inquiries, give each inquiry a number, and list them in a log in order of receipt. The procurement manager should then prepare responses to the inquiries in the order in which they were received. Upon transmitting a response to an inquiry on the MyFlorida.com website, a copy of the response must be placed in the procurement file. The requirement that the department only accepts written inquiries should be clearly expressed in the general information section of all solicitations.

c. Distribution of Responses to Written Inquiries.

(1) A copy of responses to written inquiries, referenced above, must be distributed to:

- (a) All who attend the solicitation conference (if applicable);
- (b) All who request to receive the solicitation;
- (c) All who sent Notices of Intent to Submit a Proposal (Bid or Reply); and,
- (d) Anyone who requests a copy in writing.

(2) The procurement manager has a maximum of two weeks to respond to all inquiries submitted in writing. All department responses to inquiries must be made through electronic posting on the MyFlorida.com website.

d. Changes to the Solicitation. Occasionally, after a solicitation has been mailed to the vendors, it becomes necessary to make a change or modification to the solicitation requirements. Changes should be accomplished through an addendum letter explaining the revised requirement and must be electronically posted on the MyFlorida.com website. This modification becomes a legal part of the solicitation.

e. Delay in Opening Date. If changes necessitate delaying the opening date in order to allow sufficient time for responses, this should be accomplished in the addendum. A copy of the changes must be placed in the procurement manager's file and sent to:

- (1) All who attend the Solicitation Conference;
- (2) All who requested a solicitation;

(3) All who received the original solicitation;

(4) All who sent Notices of Intent to Submit a Response to a Solicitation; and,

(5) Anyone who requests it in writing. Adherence to this procedure should eliminate any necessity for re-solicitation.

#### 5-5. Opening the Solicitation Response.

a. Receipt of Responses. As responses are received, each must be stamped or marked (if practical) indicating the date and time of receipt. All responses must be logged-in, showing the vendor's name, address and the date and time of receipt. Since many responses are too large (often in boxes) to place in the procurement file, it is crucial that an accurate log be kept to record the receipt of all responses.

b. Security of Responses. Upon receipt by the department, responses shall be maintained, unopened, in a secure location until the opening time and date.

c. Opening the Responses. The procurement manager must designate one employee to open the responses, and another employee to record the receipt in the log. Solicitation responses must be opened on the day and time specified in the solicitation. The procurement manager shall supervise the opening of all responses, and ensure that the opening is witnessed by at least one other department employee. The opening process is open to the public and may be attended by anyone and must be posted on the MyFlorida.com website. However, all solicitation response documents are exempt from public inspection or discussion at that time.

d. Exemption from Public Inspection. Sealed responses received by the department pursuant to a solicitation are exempt from public inspection and examination until such time as the department provides notice of decision, or intended decision, or within 10 days after the opening, whichever is earlier.

e. Return of Responses Received Which Failed to Meet Deadline for Receipt. Return unopened, all but one original copy of responses that were not in the care, custody, and control of the procurement manager at the time of the opening. Document this action with a letter addressed to the vendor indicating the time of arrival and the statement that, ***"the proposal/reply cannot be considered because it did not meet the specified opening deadline as stated in the solicitation."*** If the solicitation response is in the required location at the required time listed in the solicitation, it is considered to be in the care, custody, and control of the department. One unopened original of all returned responses must be retained for department records.

f. Documentation of Opening. Documentation must be maintained evidencing the following: the date, time and place of opening; and the names of persons in attendance and their roles. All present at the opening shall be advised that the reading of the names and/or prices received does not imply or constitute an award.

g. Opening of Separate Cost Proposal. If the solicitation requires the submission of a separate cost proposal, it must not be opened until the solicitation response is evaluated, and the minimum required score is achieved. The same opening process used for the solicitation response must be used for the cost proposal.

#### 5-6. Receipt of Responses.

a. Less Than Two (or no) Responses to a Solicitation. When less than two or no responses are received in response to a competitive solicitation, the department shall review the situation in order to

determine the reasons, if any, why so few or no responses were received before deciding to issue a second solicitation.

(1) If the department determines that the contractual service or commodity is available only from a single source, or that conditions and circumstances warrant negotiation for the best terms and conditions, the department's intended decision shall be posted in accordance with subsection 120.57(3), F.S., before the department may proceed with the procurement.

(2) In the event that only one or no response to a solicitation is received, the procurement manager is responsible for documenting the conditions and circumstances used to determine either (1) to proceed with a re-solicitation, or (2) to recommend contract award without a re-solicitation. This decision must be documented in the procurement manager's file and posted on the MyFlorida.com website.

b. Receipt of Equal Responses to a Solicitation. The contract signer may determine which vendor's response is most advantageous to the State, and make its recommendation for contract award, accordingly.

c. Rejection of All Solicitations. If the Secretary or designee decides to reject all solicitations, the reason for rejection must be stated, in writing, and a copy of this statement placed in the procurement manager's file. If it is known, the statement must also indicate whether or not the solicitation will be sent out at a later date. This action must be posted electronically on the MyFlorida.com website and as noted in the solicitation, if other than on the MyFlorida.com website.

5-7. Advertising Contract Negotiations. Negotiations are meetings between agency and provider personnel that are decisional in nature. These meetings are aimed at determining the direction and price of service to be delivered. In accordance with Section 286.011, F.S., the "Sunshine Law," these meetings must be open to the public. The following guidance is provided on how to treat negotiation sessions in light of these open meeting requirements:

a. The proposed negotiation approach and anticipated schedule shall be included within any competitive solicitation.

b. At the conclusion of the evaluation portion of the procurement process, the department is required to post its rankings on the MyFlorida.com website. Regardless of procurement type, negotiation meetings must be advertised two weeks before initiation of those meetings. If multiple meetings are anticipated, the advertisement must include any extended scheduling.

c. The public may attend and observe the negotiation proceedings, but only representatives of the intended parties to the contract may participate in the discussions. A record of each session shall be maintained as public record.

d. Emergency sessions should be afforded the most appropriate and effective notice under the circumstances and special meetings, where feasible, should have at least 24 hours reasonable notice to the public.

## Chapter 6

## EVALUATING THE RESPONSE TO THE SOLICITATION

6-1. Purpose. This chapter provides guidance on the development of evaluation criteria and methodology. It outlines the responsibilities of the evaluation team and offers instruction on the evaluation process.

6-2. References. Sections 20.19, 120.57, 287.001, 287.012, 287.057, and 402.73 F.S., and CFOP 75-2.

6-3. Evaluation Methodology. Before issuing a competitive solicitation of any type, evaluation considerations and criteria must be written and included in the solicitation in order to evaluate the responses to the solicitation when they are received by the department. Therefore, many procurement managers find it helpful to organize all of the evaluation materials into an evaluation manual that will contain the considerations, criteria and associated guidelines pertaining to the evaluation of the responses to the solicitation. It is crucial that the criteria and guidelines be established *before* advertising or distributing any solicitation. See Appendix F, for a Sample Evaluation Manual, including examples of evaluation criteria and guidelines. If used, the evaluation manual explains:

a. The preliminary activities required prior to developing and sending out a solicitation, and,

b. The process of evaluating the responses to the solicitation. Guidance is also offered for the following functions:

- (1) Understanding the general evaluation process;
- (2) Selecting the evaluation team;
- (3) Developing mandatory "fatal" criteria;
- (4) Developing qualitative evaluation criteria;
- (5) Establishing a method by which points are awarded;
- (6) Determining a minimum acceptable score;
- (7) Determining the maximum score possible;
- (8) Establishing a method by which a contract is awarded; and,
- (9) Writing evaluation criteria for the solicitation.

c. The Sample Evaluation Manual is organized by evaluation criteria in a suggested format that delivers general information, offers guidelines, and supplies examples. Each section of the manual begins with a brief description of the evaluation criteria, followed by sample rating sheets to be used (or modified) for each criterion associated with that section, as applicable.

6-4. Evaluation of the Responses. Foremost, it is required that the department conducts a comprehensive, fair and impartial evaluation of all responses received. To help ensure this, an evaluation team is established to evaluate responses to the solicitation. The Secretary or designee (may be the procurement manager) shall appoint teams to evaluate replies submitted in response to solicitations. The procurement manager will obtain a department decision and post the Notice of Intent

to Award the Contract. The procurement manager is responsible for handling any protests or re-solicitations, if necessary.

a. The Evaluation Team. The Secretary, or a department designee (may be the procurement manager) is responsible for appointing an evaluation team comprised of at least three people who collectively have the experience and knowledge of the program area and service or project requirements for which contractual services are sought. Team members may be either appointed or selected by the appropriate authority to assist in the selection of vendors for department contracts.

(1) In order to ensure the accuracy of financial information submitted in vendor responses, the department recommends that at least one member of the evaluation team have the necessary financial expertise to evaluate cost proposal information in order to offer an effective financial evaluation.

(2) Appointment of an evaluation team is within the authority of the department and is not subject to protest. If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the department shall, in accordance with s. 402.73(5), F.S., formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes match to support the system of treatment or contracted service which constitutes at least 25 percent of the value of the contract, the department shall afford the governmental match contributor an opportunity to name an employee as one of the persons on the evaluation team unless the department sets forth in writing the reason why such inclusion would be contrary to the best interest of the State. Any employee so named by the governmental match contributor shall qualify as one of the persons required by s. 287.057(17), F.S.

(3) The evaluation team should be comprised of evaluators who have experience and knowledge of the program areas and service requirements of the solicitation. The evaluators shall determine which responses meet the requirements and criteria specified in the solicitation. Each response shall be reviewed and evaluated in its entirety.

b. Requirements for the Evaluation Team.

(1) It is required that an evaluation team of at least three persons be used for competitive solicitation responses, for a contract more than the threshold amount of Category Four according to s. 287.057(17), F.S.

(2) It is required that each prospective member of the evaluation team complete the Conflict of Interest Questionnaire to ensure that no evaluator has any conflict of interest which would interfere in the selection of a vendor. If an evaluator answers "yes" to any question, his/her participation on the evaluation team must be reviewed by the procurement manager and the Contract Management Supervisor in conjunction with local legal counsel. If any conflict or potential conflict is identified, a description of how that conflict was resolved is required in the procurement file.

(3) Whenever possible, the individuals who participate in the development of the solicitation and its evaluation criteria should not serve on the evaluation team to recommend a vendor for contract award because of the potential for a conflict of interest. However, if these circumstances can not be avoided, the procurement manager must ensure that the Conflict of Interest Questionnaire (Appendix C) is completed by each participating individual prior to such involvement.

(4) Meetings of the evaluation team are subject to the provisions of section 286.011, F.S., the Government in the Sunshine Law. Any meetings of two or more members of the evaluation team must be open to the public and noticed on the MyFlorida.com website. If the solicitation's

Schedule of Events and Deadlines includes the location, date, and time of evaluation team meetings, this serves as the required public notification.

(5) The evaluation team must evaluate all responses using the evaluation criteria in accordance with the evaluation methodology contained in the published solicitation.

(6) Upon completion of the evaluation, evaluators are required to submit their scores, along with any notes used to determine scoring, to the procurement manager for review. The procurement manager then sends the evaluation information to the Secretary, contract signer or designee for decision.

(7) The contract signer for all department contracts is the Secretary, or designee. Award determination is based upon the evaluation team results that indicate the vendor who received the highest score using the methodology described in the solicitation. The Secretary, contract signer or designee will use the evaluation results, take into consideration which response is most advantageous to the state, and make a decision of contract award. If the highest ranked vendor is not selected, the reason for the selection of another vendor must be set forth in writing and included in the procurement manager's file.

c. Rules for Evaluation Proceedings. See Appendix F, Sample Evaluation Manual, for an example.

d. Evaluation Team Meetings. The following information provides instructions for the evaluation team meetings. Both the Initial Meeting and the Debriefing Meeting are required to be open to the public. A minimum of two public meetings of evaluators must be held, including an initial meeting held at the beginning of the evaluation process and a debriefing held at the conclusion of the process. All meetings must be noticed on the MyFlorida.com website.

(1) Initial Meeting. The purpose of the initial meeting is to allow evaluators to familiarize themselves with the evaluation process and to ensure that they have neither misunderstood nor missed information concerning the evaluation of the solicitation response. It is at this meeting that evaluation rules are reviewed; the team's tasks clarified; and the evaluation scoring system discussed. It is important that the procurement manager ensure that evaluators understand the limits of communication pertaining to the evaluation process. Namely, that there is to be no communication among evaluators concerning the proposals to be evaluated. The initial meeting of the evaluators must be included in the Calendar of Events and Deadlines, which is a part of every solicitation issued by the department. The meeting's purpose is multifold. Since it is the first time the evaluators are gathered together in one place, it is an appropriate time for ensuring that all Conflict of Interest forms are signed and placed in the procurement manager's file, and for ensuring that all evaluators understand the following:

- (a) The nature of the evaluation task ahead;
- (b) The use of the rating sheets;
- (c) The rating scale to be used;
- (d) That each evaluation must be independent of any other;
- (e) That each response must be scored independent of any other;
- (f) That no evaluator may discuss his evaluation with any other person except the procurement manager;
- (g) That questions may be asked only of the procurement manager; and,

(h) That there shall be no consensus votes as to what score should be accorded to a particular criterion.

(2) Debriefing Meeting. The main purpose of the final meeting of the evaluators is to receive and record all evaluation scores. It is not essential that uniformity in scoring be achieved. **However, it is important to ensure that all evaluators have considered the same reference sources when scoring the information presented in the responses.** It is at this meeting that the procurement manager or designee logs in and records all scores on a spreadsheet and calculates those scores according to the evaluation methodology outlined in the published solicitation.

(a) The debriefing meeting referred to in the Calendar of Events and Deadlines is very different from the Initial Meeting. The debriefing meeting takes place after all evaluators have completed their tasks and are ready to report their evaluation results. At the debriefing meeting the following shall occur:

(b) The procurement manager will confirm that no one has tried to influence any of the evaluators and that each evaluator has exercised his own independent judgment in scoring each response independently of any other.

(c) The procurement manager will fill out a spreadsheet with the names of the evaluators across the top and the number of the evaluation criterion down the left side. Each evaluator will be asked, in turn, for the score he has given to each criterion. If the scores are reasonably consistent, nothing further is required of the evaluators.

(d) If the scores are unreasonably disparate, the sole function of the procurement manager is to allow each evaluator to point out where in the response he found the material, which was used to formulate his score. It is important to note that the numerical value of the score is not to be questioned – it is only the disparate nature of the score, which may be investigated. No pressure is to be placed upon any evaluator to change any score. **The purpose of this exercise is to assure that each evaluator, regardless of the score, determined his score based upon the same material within the response and not upon either material that did not apply or material omitted by others.**

(e) Should a discrepancy exist with regard to the material reviewed, those who did not review the material that has not been pointed out as applicable to the criterion under study should be given additional time within which to review the newly discovered material, and to determine independently whether a change in an individual score is appropriate.

(f) No score is to be changed simply because it does not agree with most of the other scores given by other evaluators.

6-5. Evaluation Considerations and Criteria. Both considerations and criteria are used to ensure a good overall evaluation of the solicitation responses. Both considerations and criteria must be set out in advance in the solicitation.

a. Evaluation Criteria. Criteria are well planned, carefully calculated questions that address one subject only and have been assigned values on a predetermined numerical scale (e.g., 1-5 points). Criteria are intended to get information from the vendor that will help the department determine whether a vendor is the best choice for supplying the intended product or service. Criteria are designed to elicit either objective or subjective vendor responses that can be evaluated, measured, and assigned a score. For the evaluation of most solicitation responses, criteria should be divided into two types:

(1) Qualitative Criteria. Subjective criteria that can be responded to differently by different vendors. Qualitative criteria should represent every element or aspect of the solicitation response, reflecting the measurable quality of vendors' responses.

(2) Mandatory Criteria. Objective criteria that requires the same response from all vendors. Mandatory Criteria may not be waived as minor irregularities. Mandatory criteria are such that if they are not met in full, a solicitation response shall be rejected and not considered for further evaluation.

b. Evaluation Considerations. Considerations elicit proof of the particular criterion for a solicitation.

c. Values are assigned to each qualitative criterion reflecting its importance.

d. Weights may be used to signify values of higher or lesser importance.

e. There are four essential characteristics of good evaluation criteria. For specific instructions for developing evaluation criteria and samples of types of criteria, see Appendix F, Sample Evaluation Manual. Criteria should be:

(1) Relevant, in that each criterion should pertain to the service or program and evaluate what it intends to evaluate.

(2) Clear, in that each criterion should be written in concise, plain language that can be easily understood, and should not contain jargon, acronyms, or specialized language that could preclude a vendor from comprehending its meaning.

(3) Quantifiable, in that each criterion should be assigned a numerical value can be assigned for calculation determination. In addition, certain criteria may be weighted according to a prescribed system that is clear and rational.

(4) Scaleable, in that each criterion should be able to be ranked, e.g., good, better, best, in increments along a scale according to a defined terminology. For example, if poor = 1 point, what is the definition of "poor"? And if a score of 5 = excellent, what is the definition of "excellent"?

f. When developing evaluation criteria, use the following guidelines:

(1) Develop evaluation criteria that assess the quality and completeness of the vendors' responses. Evaluation criteria constitute the major portion of the evaluation process, and are, therefore, critical to the decision for contract award.

(2) Include specific evaluation criteria for every section of the solicitation. Write clear and concrete criteria so that both the evaluation team and the vendor understand what they measure. The criteria should be organized in the same order as the required responses.

(3) Establish a minimum total score below which responses will not be considered.

(4) Define the minimum acceptable standard or level for each scale, i.e., if using a 0-5 scale, determine which is an acceptable score, for example 0 = not acceptable; 1 = acceptable; 2 (and above) = exceeds, with varying degrees of acceptability.

- (5) Assign values to each qualitative criterion to reflect its importance.
- (6) If desired, assign weighted values to selected criteria, groups, or categories.

STATEMENT OF NO INVOLVEMENT

I, \_\_\_\_\_, as an authorized representative of \_\_\_\_\_, certify that no member of this firm or any person having interest in this firm has:

1. Been awarded a contract by the Department of Children and Families on a noncompetitive basis to perform a feasibility study concerning the scope of work contained in this Solicitation, or
  2. Participated in drafting this Solicitation, or
  3. Developed a program for future implementation
- with specific subject matter contained in this Solicitation.

**Type Name of Authorized Official:**

**Title:**

**Signature of Authorized Official:**

**Date:**

*NOTE: Use of this form is mandatory for documentation of contract negotiations for the ITN.*

Memorandum of the Negotiations

The importance of the *Memorandum of the Negotiations* cannot be overstated. The Memorandum is not simply a form placed in the procurement file merely to show that discussions were conducted; it serves as a key certified document to be used throughout the life of a contract to assist in the management and administration of the contract.

The *Memorandum of the Negotiations* form consists of five sections discussed below:

1. Introduction – The introduction provides general information about the specific negotiation being addressed. Information generally includes the identification of the participants, the date and location of the negotiation, and a description of the purpose and scope of the negotiation.

2. Procurement History – The procurement history provides background data essential to understanding and framing the negotiation in the proper context. The procurement history should be discussed in terms of who provided the services in the past and how they were acquired.

3. Negotiation Particulars - The negotiation particulars section contains the record of the negotiation process outlined in the four steps listed below:

(a) Planning (Required) – Plans are developed for the negotiation proceedings. In every negotiation, each party has an opening position. For example, the department's opening position may include a cost estimate, budget, or other requirement. The assumptions and information on which the department has based its estimate or requirement should be detailed in this section. Department positions are usually based on historical data, and discrete, parametric, or other estimation methods. The Negotiation Memorandum records this estimation methodology along with any assumptions used in determining the department's position.

(b) Data-Gathering (Proposed) – Data is gathered, the vendor's proposal is dissected and recorded, and areas of disagreement are highlighted and described.

(c) Objective (Analysis) – The differences between the department's and the vendor's positions are carefully analyzed. From the results of this analysis, the department determines the acceptability of the vendor's position and develops tradeoffs, compromises, or alternative positions. Adjustments to assumptions may also be made. The analysis should result in the development of a new position which the parties will discuss in depth, and which may form the basis for the future agreement.

(d) Negotiated (Implementation) – The results of the negotiation discussions are implemented. Variances from the objective must be described in sufficient detail to allow a third party reviewing the negotiation documents to understand the issues discussed and any resolutions or agreements.

4. Conclusion – The Conclusion draws the elements of the document together to indicate that an agreement has been reached that is fair and reasonable and in the best interest of the department. Any contingencies associated with this agreement must be resolved in this section.

5. Authorized Signatures – The contract signer or designee for the department and an authorized representative for the applicant (vendor) both sign the Memorandum of the Negotiations. Both signers must be individuals with signature authority to bind their parties to the agreed upon clarifications or terms of the negotiations. Other department signatures may be added at the discretion of the Secretary or designee.

### Conflict of Interest Questionnaire

\_\_\_\_\_  
(Title of Solicitation/Contract)

	YES	NO
1. Do you, your immediate family, or business partner have financial or other interests in any potential vendor?	<input type="checkbox"/>	<input type="checkbox"/>
2. Have gratuities, favors, or anything of monetary value been offered to you or accepted by you from any potential vendor?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you been employed by any potential vendor within the last 24 months?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do you plan to obtain a financial interest, e.g., stock, in any potential vendor?	<input type="checkbox"/>	<input type="checkbox"/>
5. Do you plan to seek or accept future employment with any potential vendor?	<input type="checkbox"/>	<input type="checkbox"/>
6. Do you have any other conditions which may cause a conflict of interest?	<input type="checkbox"/>	<input type="checkbox"/>

\_\_\_\_\_  
If you answered "yes" to any of the above questions, attach to this questionnaire a written explanation of your answer below.

\_\_\_\_\_  
I declare all of the above questions are answered truthfully and to the best of my knowledge.

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Note: To be used with the Invitation to Negotiate

**CERTIFICATION OF ASSURANCES**

The vendor assures the following requirements and conditions will be met:

1. The vendor has or will be able to achieve by a mutually agreed upon date, the ability to coordinate, integrate, and manage all (list \_\_\_\_\_) services in the following counties: (list \_\_\_\_\_)
2. The vendor has the ability to ensure continuity of care from entry to exit for all the following clients: (list \_\_\_\_\_)
3. The vendor has the ability to provide, directly or through subcontract, all necessary care and related services.
4. The vendor will be accountable for meeting the outcomes and performance measures related to this program and the related services established by the Legislature and the federal government.
5. The vendor has the capability to serve all clients referred by: (list \_\_\_\_\_), regardless of the level of funding allocated, provided all funding is set out in the contract between the department and the vendor.
6. The vendor will ensure that each individual who provides client services completes the required training.
7. The vendor assures continuing conformance to state and federal laws and regulations pertaining to this service.
8. The vendor accepts responsibility for all required data collection and reports, as specified in the solicitation.
9. The vendor agrees to submit to the department for approval, a cost allocation plan which describes methodologies used by the vendor to claim costs for this service contract.
10. The vendor assures its understanding of: (site F.S. or other authority \_\_\_\_\_) pertaining to the delivery of services under this contract.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

**SAMPLE**

**REQUEST FOR APPROVAL TO USE AN INVITATION TO NEGOTIATE**

The office of \_\_\_\_\_ has determined that it must acquire the following services: *(Provide a brief description of the services sought.)*

We have determined that using an Invitation to Bid is not an appropriate procurement vehicle because: *(Provide an explanation.)*

Likewise a Request for Proposals is not an appropriate type for procurement because: *(Provide an explanation.)*

An Invitation to Negotiate is in the best interest of the State because: *(List the reasons why the Invitation to Negotiate is better suited for this procurement than the other available types of procurement.)*

Therefore, we are hereby seeking approval to use an ITN to competitively procure these services. We would like to advertise the ITN not later than \_\_\_\_\_. If you require further information, please contact: *(Provide the name and telephone number of a contact person.)*

**Procurement Manager:**

Approved: \_\_\_\_\_  
Signature Date

**Office of Legal Services (OSLS):**

Approved: \_\_\_\_\_  
Signature Date

**Office of the Secretary (OS):** (or designee, if appropriate)

Approved: \_\_\_\_\_  
Signature Date

**SAMPLE**

## Sample Evaluation Manual

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES

### **SAMPLE**

EVALUATION MANUAL  
RFP/ITN

Name of Program or Project: \_\_\_\_\_

Solicitation #: \_\_\_\_\_ (RFP, ITN)

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

Phone/SunCom #s: \_\_\_\_\_

Contact Person Mailing Address: \_\_\_\_\_

Contact Person E-Mail Address: \_\_\_\_\_

### **General Requirements for Submission**

1. Give the format requirements for all responses.

**For Example:** The vendor shall supply one (1) original and five (5) copies of the response (application, proposal, detailed service proposal, service proposal) each in a separate sealed envelope clearly indicating the contents, e.g., “Proposal for RFP #: \_\_\_\_” must be printed on each envelope.

2. Give a brief summary of what service or product the vendor is expected to provide.

**For Example:** “The XYZ System will provide the department with a single, integrated computer system to assist management and staff in the provision of child welfare services, and will support districts, vendors, and central office staff in performing both case management and resource management functions.”

3. State the scoring procedures that will be used in the evaluation of the solicitation Responses.

**For Example:** “The procurement manager will use a spreadsheet with the names of the evaluators across the top and the number of evaluation criterion down the left side. Each evaluator will be asked in turn for the score given to each criterion. If the scores are reasonably consistent, nothing further need be done by the evaluators. If the scores are significantly disparate, the procurement manager is to allow each evaluator to point out where in the response the material is found that is the basis for the score given. It is important to note that the numerical value of the score is not to be questioned. It is only the disparate nature of the score that can be investigated.” You can obtain a sample *Response Summary Score Sheet* at <http://ewas.dcf.state.fl.us/asc/>.

### **Organize the Evaluation Criteria and the Evaluation Proceedings**

1. Separate the criteria used to evaluate the response into separate sections.

**For Example:**

#### **Initial Screening or Mandatory criteria**

Provide Initial Screening or Mandatory Criteria for determining at the outset whether each response complies with the required criteria set out in the solicitation. Failure to comply with all Mandatory Criteria will render the response non-responsive and ineligible for further evaluation. Screening or Mandatory criteria are items that require the same kind of response from all vendors (either “yes” or “no”), and have no assigned point values. These criteria should serve to screen out responses that do not meet the established requirements. If each mandatory criterion is not met in full, the response will not be considered further.

**NOTE:** Screening or Mandatory criteria is written to elicit a simple “yes” (pass) or “no” (fail) response, therefore numerical values should not be assigned to these criteria since the response is either a “yes” or “no,” with no degree or variance. Too many mandatory criteria may rule out an otherwise adequate response. Errors in these are not treated as minor irregularities subject to the department’s discretion.

#### **Qualitative Evaluation Criteria**

Qualitative Criteria are items that are scored with point values, and can be responded to in different degrees by vendors. Evaluation criteria must be developed for scoring all responses, the sole purpose of which is to help the department determine which of the responses will best accomplish

the department's goal of obtaining high quality, efficient, and economical services or products for the clients we serve.

Qualitative Criteria may be subdivided as determined by the type of project or program service being solicited:

**For Example:**

- (a) General Criteria - assess the vendor's overall capabilities for fulfilling the requirements of the proposed project.
- (b) Financial Criteria - assess the vendor's financial stability and capabilities for undertaking a project of this scale.
- (c) Technical Criteria - assess the vendor's technical capabilities for undertaking a project of this scale.
- (d) Project Staff Criteria- assess the qualifications of both administrative and project personnel.
- (e) Project Management Criteria - assess the vendor's management experience and current plans for this project.
- (f) Cost Proposal Criteria - uses formulas and ratios to assess cost proposals based on the vendor's cost information.

**Weighting Criteria**

Qualitative Evaluation criteria may be weighted according to a predetermined method.

Sample Weighting Methods:

**Method A:** List and assign a weighted value to *each criterion*.

List each criterion that needs to be included, in the order in which the responses should be organized.

Determine a standard rating scale for all evaluation criteria. The same scale should be used for each criterion. Commonly used rating scales are 0-4 or 0-5 with each level of scoring clearly defined as to its meaning. It is not recommended to use a rating scale with less than 3 levels or more than 5, unless deemed necessary.

Determine which criteria are the most important, and assign a maximum "weighted" value of "X" to each of these criterion. The points given to each of the "most important" criterion on the rating scale will be multiplied by "X," giving the score a weighted value of X times its original value.

Determine the relative value of each criterion and assign a weighted value to each. For example, the least important item would have a weighted value of "1," and so on. The formula for this approach is: Rating Scale Value X Weighted Value = Total Weighted Points

For Example: The Statement of Need, as expressed by the vendor, displays a general understanding of the project, and on a rating scale of 0-5 is given a "3", with "2" being the weighted value assigned this criterion. The total points for vendor N on this criterion is "6" (3 x 2 =6).

**Method B:** Organize criteria into major categories, and assign a weighted value *to each category*. Determine the major categories to be evaluated in the vendor’s response, such as: Introduction, Statement of Work, Organizational Capability, etc.

Determine the evaluation criteria within each category to evaluate the vendor’s response to that category. For example, under the major category “Introduction,” the evaluation criteria may consist of: “Vendor’s response to statement of need,” which indicates a general understanding of why the project is being pursued, and “Vendor’s response to statement of purpose,” which indicates a general understanding of what the project is to accomplish.

Determine the standard rating scale to be used for all the criteria regardless of the category.

Determine the weighted value for each of the major categories, as described in the first approach. The difference is that in this approach the weighted values are assigned to the major categories rather than each individual criterion.

The total for each category is derived by adding the rating scale values given each criteria and multiplying that total by the weighted value for that category.

See Table A below for an example of using Method B in which specific categories are given an assigned weighted value:

Table A

Category	Value
Background and Experience	300 points
Organization and Staffing	300 points
Technical Approach	200 points
Project Management	200 points
Work Plan and Schedule	100 points
Data Processing Abilities	200 points

2. Provide evaluation team members with evaluation criteria, issues to be considered during the scoring of each evaluation criterion, and scoring documents for performing a detailed evaluation of each of the major areas in each response.

**Procedures for Scoring Responses**

1. All evaluation team members will assign a raw score for each evaluation criterion using the scale of: (Sample Scale: 0-5). Each evaluator is to assign a score for each evaluation criterion based upon his/her assessment of the solicitation response. The assignment of any individual score should be based upon the following description of each point score:

SAMPLE: (using a 0-5 point scale)

0 = no value; vendor has shown no capability, has ignored this area, or has so poorly responded to this criterion that understanding is not possible

1 = poor; vendor has demonstrated little or no direct capability, or has not adequately covered this area, but there is some indication of marginal capability

2 = minimally acceptable; vendor demonstrates minimum capability

3 = good; vendor has demonstrated more than just adequate capability and a good approach

4 = very good; vendor has demonstrated very strong capability and a very good approach

5 = superior; vendor has demonstrated excellent capability and an outstanding approach

2. Each evaluator will evaluate all responses that have passed the mandatory criteria. Each evaluation criterion must be scored. Fractional values will not be accepted. Any responses missing scores will be returned to be completed. Scoring should reflect the evaluator's independent evaluation of the response to each evaluation criterion.

*Optional Scoring Method:* In some cases, cost proposals will not be opened until evaluation of all solicitation responses is complete. The points awarded for cost will be added to the points awarded for the overall evaluation to determine the final scores and the ranking for each of the responses.

3. Evaluators should record references to the sections of the solicitation document and the written response materials, which most directly pertain to the criterion and upon which their scores were based. More than one section may be recorded. Evaluators should not attempt an exhaustive documentation of every bit of information considered but only one or two main places where the information evaluated was found. That information will be used during debriefing to assure that all evaluators considered essentially the same information when scoring. In general, the reference statements should be brief. If the response does not address an evaluation criterion, evaluators should indicate "not addressed", and score it accordingly.

*NOTE:* A list of Considerations should be used to help determine evaluation scores.

**For example:**

Evaluation Criteria #1: Does the response contain a workable schedule for delivering the requested services that will meet the department's objectives?

*Considerations:*

- Does the proposed schedule of service delivery include all aspects of the program/project?
  - Does the proposed schedule of service delivery follow a logical sequence?
  - Is the proposed schedule of service delivery workable, especially considering the requirements (quality, time, etc.) of the program/project?
  - Is the plan for delivery consistent with the department's objectives?
4. Evaluators may request assistance in understanding evaluation criteria and responses only from the procurement manager or designee. Technical assistance may be provided at the request of the procurement manager by a technical advisor who is not involved in the scoring and only to all evaluators simultaneously.
  5. Following completion of the independent evaluations of the responses, the procurement manager or designee will hold a Debriefing Meeting with the evaluation team. The purpose of the meeting is to ensure that all evaluators have used the same vendor response as the foundation for their scoring, and that there have been no misunderstandings regarding the meaning of any evaluation criteria.

6. After each evaluator has completed the scoring of every solicitation response, scores will be calculated to determine the total score for each. The evaluation team's recommendation and evaluation scores are then submitted to the Secretary or designee for review and for final contract award decision.
7. The Secretary or designee will review the rankings and supporting materials, and will make the determination of the final award, taking into consideration cost and other evaluation criteria set forth in the department's solicitation. The Secretary or designee reserves the right to take any additional administrative steps deemed necessary in determining the final award, including additional fact finding or evaluation where necessary and where consistent with the terms of this solicitation and applicable law. The decision making process used by the Secretary or designee when making the determination of final award will be documented in the procurement file. Documentation will demonstrate that the choice for final award is not capricious or arbitrary and represents the best value for the department and for the state.

## **SECTION 1: Initial Screening or Mandatory Criteria**

The department reserves the right to reject any and all solicitation responses.

Any response that does not meet the mandatory criteria will be rejected.

No points are awarded for complying with the mandatory criteria. This part of the evaluation is performed by the procurement manager or designee, who will check either "PASS" for each "YES" response or "FAIL" for each "NO" response for each of the mandatory criterion.

Any response that is incomplete, or in which there are significant inconsistencies or inaccuracies will be rejected by the department. Any response that receives a "FAIL" (NO) score on any item, or has an item which, for some reason or another, cannot be evaluated, will be deemed non-responsive, and will be rejected.

When the evaluation of all mandatory criteria has been completed, the procurement manager or designee will sign and date the cover sheet. The following section contains a coversheet with sample Initial Screening or Mandatory Criteria, which can be used as is, or modified for any evaluation of a solicitation response. The following is section is intended to provide SAMPLE initial screening or mandatory criteria only, the procurement manager must develop criteria specific to the solicitation.

**SAMPLE:  
Initial Screening or Mandatory Criteria**

**for: (enter name & # of RFP, etc.)**

Note: For an RFP, use the term "proposal", for an ITN, use the term "reply" for the initial response and "detailed proposal" for the subsequent response submitted by vendors.

VENDOR'S NAME: \_\_\_\_\_

EVALUATOR'S NAME: \_\_\_\_\_

SIGNATURE & DATE: \_\_\_\_\_

1. Was the response received by the date and time specified in the solicitation?

Pass (YES)                       Fail (NO)

Comments:

2. Does the response contain a statement indicating that the vendor and any proposed subcontractor(s) are legal entities and that each satisfies all licensing requirements of state and federal law authorizing them to do business within the State of Florida?

Pass (YES)                       Fail (NO)

Comments:

3. Does the response provide the vendor's federal tax identification number (if applicable)?

Pass (YES)                       Fail (NO)

Comments:

4. Does the response contain a signed and dated copy of the Certification Regarding Lobbying form?

Pass (YES)                       Fail (NO)

Comments:

5. Does the response include a signed Statement of No Involvement form?

Pass (YES)                       Fail (NO)

Comments:

6. Does the response include a signed Certification Regarding Debarment form?

Pass (YES)

Fail (NO)

Comments:

7. Does the response contain a signed Statement of Compliance stating that the vendor will comply with all terms and conditions as indicated in the PUR form (if applicable), the solicitation, and the Standard Contract?

Pass (YES)

Fail (NO)

Comments:

8. Has the vendor submitted verification of General Liability insurance coverage?

Pass (YES)

Fail (NO)

Comments:

**SECTION II: Qualitative Evaluation Criteria****General Criteria:**

In considering the development of qualitative criteria, the following questions should be addressed:

- Does the vendor have the necessary experience, organization, qualifications, skills, and facilities, or have the ability to obtain them?
  - Does the vendor have a satisfactory record of integrity, judgment, and performance?
  - Is the vendor qualified and eligible to receive a contract award under applicable laws and regulations?
- (1) Conduct reference checks. The purpose of contacting references is to verify the capabilities of the vendor. Reference check questions should emphasize performance as well as experience. Reference checks are typically conducted by telephone in which the procurement manager or designee contacts the references identified by the vendor. It is important to establish guidelines for reference check questions. The results of the reference checks should be compiled in writing and added to the procurement file. If the procurement manager obtains reference checks that are significantly diverse from the information provided in the solicitation response, a written summary of the deviations should be provided to all evaluation team members. However, the evaluators should still rely on the information in the response in scoring the specific evaluation criteria.
- (2) Evaluate and document any prior experience with the department or other state agencies.
- (3) Review past performance evaluations, monitoring reports, professional journal articles, etc.

Note: A vendor who is seriously delinquent in current performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be deemed unable to fulfill the requirements of the proposed solicitation.

The following rating sheet offers sample criteria that may be used to develop the general section of the evaluation criteria to help determine a vendor's overall capability.

**SAMPLE GENERAL CRITERIA:**

<b>General Criteria</b>	
How well does the response describe in detail how the required service tasks are to be delivered: (Evaluate each <u>individual</u> service task component listed below.)	
REFERENCE:	SCORE
NOTES:	
SCORE ____ x WEIGHTED VALUE ____ = _____ TOTAL SCORE: _____	

**Examples of Possible General Criteria Questions:**

- How well does the response discuss the sources of referral and methods of outreach, intake procedures, identification of risk factors, screenings and priority of clients, means of handling ineligible clients and waiting lists?
- How well does the response address the process and time frames for which follow-up contact will be made with the clients following six months after successful termination of program services?
- How will the vendor determine when to close a case file or terminate client services? How well does the response describe measurable evaluation criteria for determination of success or failure of a client at the time of closure?
- How well does the response clearly indicate when and how project case records are closed or terminated and the location where all case records will be stored?
- How well does the response describe a process for identifying client’s needs and service provisions?
- How well does the response provide a general overview of the vendor’s purpose and activities and to what extent is it compatible or consistent with the goals of the services described in this solicitation?

**Financial Criteria:**

The purpose of this section is to provide the department with a basis for evaluating the vendor's financial capabilities for undertaking this project. The evaluation criteria should address some of the following sample questions:

- Does the vendor demonstrate the financial stability required to fulfill the terms and conditions of the contract?
- Does the response provide three (3) years of financial information including any of the applicable statements? For sample Statements, visit the DCF website.
  - Statements of Financial Position
  - Statements of Activities
  - Dun and Bradstreet Comprehensive Report
  - Statements of Cash Flow
  - Statements of Changes in Financial Position
  - Auditors' Reports
  - Notes to Financial Statements
  - Summaries of Significant Accounting Policies
  - Federal Income Tax Return
  - Any other relevant statistical information
- Does the vendor have adequate financial resources for performance of the proposed project, or have the ability to obtain necessary financial resources before beginning performance?

To evaluate a vendor's financial capabilities, the following actions may be performed:

- Review financial statements to determine the vendor's ratio of current assets and liabilities.
- Compare the vendor's cash/operating capital to projected monthly operating expenses to determine if there is sufficient cash flow to cover operating expenses pending receipt of first, and subsequent contract payments.
- Review the vendor's Statement of Net Worth.
- Review management letters from previous audits to see if corrective actions (if any) were satisfactorily completed.
- Determine whether the vendor can conduct business with the department without relying on advances, especially if the project is not a new one.
- Investigate whether the vendor has had any previous financial difficulties in performing contracts for the State.

The following rating sheet offers samples of financial criteria:

**Sample Financial Criteria**

<b>Financial Criteria</b>	
Does the response include a CPA Financial and Compliance Audit and a copy of the Management Review Letter, which clearly describes the vendor's financial position?	
REFERENCE:	SCORE
NOTES:	
SCORE ____ x WEIGHTED VALUE ____ = _____ TOTAL SCORE: _____	

**Examples of Possible Financial Criteria Questions:**

- How well does the response identify all sources of revenue received for the total operation of the company or agency?
- How well does the response describe the company or agency's internal system for fiscal control and oversight?
- How well does the response describe the company or agency's maintenance of fiscal records (e.g., Are records kept in an auditable format for easy access by the department)?

**Technical Criteria:**

The purpose of this section is to provide the department with a basis for evaluating the vendor’s technical capabilities for undertaking this project. The evaluation criteria should address some of the following sample questions:

- Does the response provide a detailed history, legal structure, ownership, and list of affiliations outlining the vendor’s technical expertise?
- Does the response provide information relative to any awards or recognition received by other organizations for the vendor’s work on similar technical projects?
- Does the response contain a completed Certification of Software?

To evaluate, consider the following questions:

- (1) Does the vendor have the necessary technical qualifications to perform the duties of the project?
- (2) Does the proposed facility meet the physical security requirements outlined in the solicitation?
- (3) Does the response address and describe all systems support needs as required in the solicitation?
- (4) Does the response address and describe the issue of requested reports, including ad hoc reporting requirements, outlined in the solicitation?
- (5) Does the response address and describe methods for meeting the requirements for documentation standards outlined in the solicitation?

The following rating sheet offers samples of technical capability criteria.

<b>Technical Criteria</b>	
To what extent does the response show that the vendor has compatible electronic Management Information System (MIS) capabilities to meet project requirements?	
REFERENCE:	SCORE
NOTES:	
SCORE ____ x WEIGHTED VALUE ____ = ____                      TOTAL SCORE: ____	

**Examples of Possible Technical Criteria:**

- How well does the response address and describe the issues of system security.
- How well does the response address and describe the issue of equipment procurement (if applicable)?

**Staff Criteria:**

The evaluation of project organization and staffing should include detailed criteria, which evaluates the vendor's overall staffing approach to the project and the tasks, the qualifications of key personnel, and the past performance of the company and the individuals. The proposed project organization and use of staff resources will also be evaluated to assess the vendor's capability to perform all major tasks within the project timetable. References for proposed staff will be checked and included in the evaluation section. Reference checking is not limited to those referenced by the vendor.

To effectively evaluate a vendor's ability to adequately staff the proposed project, the following actions should be taken:

- Ensure the response defines the specific positions for all staff including:
  - (a) roles in the overall organization structure,
  - (b) staffing levels for all project tasks,
  - (c) relative education,
  - (d) relative work experience
  - (e) number of full-time, part-time staff proposed.
- Ensure the response describes the proposed staffing for the project, and includes, at a minimum:
  - (a) a description of how to staff and manage all functions associated with the proposed statement of work, program, or project, and
  - (b) specific numbers, qualifications, licenses, credentials and roles of each employee assigned to the project.
- Ensure the response includes an organizational chart, which identifies staff relationships, all positions assigned to the project, geographical location for each employee, and the amount of time each employee shall devote to the project.
- Ensure the response includes resumes and references for all employees assigned to the contract.
- Ensure the response provides a table that identifies key personnel described in the solicitation, which includes the name of the person(s) being proposed in each staff classification and the page number in the response where the resume for each person can be found.

The following rating sheet offers samples of project staff criteria.

**SAMPLE STAFF CRITERIA:**

<b>Project Staff Criteria</b>	
How well are the number and type of staff for the project identified?	
REFERENCE:	SCORE
NOTES:	
SCORE ____ x WEIGHTED VALUE ____ = _____ TOTAL SCORE: _____	

**Examples of Possible Project Staff Criteria:**

To what extent are the number of personnel identified for the project adequate to provide the proposed services?

How well does the response describe the job responsibilities and how these responsibilities follow the requirements defined in the solicitation?

To what extent are complete job descriptions/resumes for each position, showing minimum training, education and experience, included in the response?

How well does the response present an organizational chart for all aspects of the organization? Is the chart sufficiently detailed?

**Management Criteria:**

The purpose of this section is to provide the department with a basis for evaluating the vendor's management capabilities for undertaking this project. The evaluation criteria should address some of the following sample questions:

- Does the response contain a management summary describing the vendor's understanding of the need for, and purpose of the project?
- Does the vendor's background and work experience demonstrate their ability to manage the functions required by the project? To help determine this, consider the following:
  - (a) the vendor's primary line of business
  - (b) the vendor's total number of employees
  - (c) the vendor's number of personnel dedicated to this project
  - (d) any conflict of proposed staff assignments with other on-going operations
  - (e) client satisfaction with the number of staff assigned to manage other similar contracts
- Does the vendor's overall approach to the organization of the project adequately address the scope and complexity of the contract tasks?

**Cost Proposal Criteria:**

Does the cost proposal contain a statement that the vendor and any subcontractor(s) certify that the prices proposed have been arrived at independently, without consultation, communications, or agreement as to any matter relating to such prices with any other vendor or with any competitor?

Does the cost proposal contain a statement that the vendor certifies that unless otherwise required by law, the prices quoted have not been knowingly disclosed by the vendor prior to award, directly or indirectly to the department, to any other vendor or to any competitor?

The following rating sheet offers samples of cost proposal criteria:

<b>Cost Proposal Criteria</b>	
How well does the project's budget relate to the delivery of the project or service plan described in the solicitation?	
REFERENCE:	SCORE
NOTES:	
SCORE ____ x WEIGHTED VALUE ____ = _____ TOTAL SCORE: _____	

**Example of Possible Cost Proposal Criteria:**

- How well does the budget narrative clearly support the proposed Line Item Budget?
- To what extent does the budget narrative clearly support the proposed Fringe Benefit line item?
- How well do the additional budget narratives clearly support the proposed budget line items?
- How well do the costs presented in the budget reflect items which are reasonable and necessary?
- How well are indirect costs allocated to this project justified in the cost proposal?
- Are the administrative costs 10% or below? How well is the method for calculating costs described in the cost proposal?

**Subcontracting Criteria Considerations:**

- If applicable, has the vendor's recent performance history indicated acceptable subcontracting systems?
- Determine what, if any, prior experience the vendor has in working with subcontractors in performing the project or service.
- If the subcontractors are identified in the solicitation response, determine what experience or level of performance they have in rendering the service or terms of the project.
- If existing sub-contractual relationships exist, review the vendor's subcontracting documents (former or current contracts) for compliance with the standard contract and department's policy on minimum subcontracting requirements.
- Determine what advance commitment has been obtained (if any) by the vendor from any subcontractors.

## **SAMPLE SCORING INSTRUCTIONS**

### SCORING INSTRUCTIONS FOR THE RFP

Questions related to the solicitation and the evaluations of the response should be directed only to:

Name of Procurement Manager: \_\_\_\_\_

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

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

The response shall be independently scored by each member of the evaluation team. No collaboration will be permitted during the scoring process. Evaluators have been chosen to participate because of their skills, and because of the department's confidence in their ability to score both independently and fairly. The same scoring principles must be applied to every response received, independent of other evaluators.

The written information submitted will be the basis upon which responses are evaluated and scored. Telephone interviews may be utilized to conduct reference checks. However, only written information contained in the solicitation responses may be evaluated. If applicable, the results of the reference checks will be provided to each member of the evaluation team, but may not be considered in the scoring process.

A Debriefing Meeting will be held for the exclusive purpose of assuring that information has not been overlooked in the scoring of responses. Once scores are given to the procurement manager, they may not be altered in any way. Evaluators should work carefully to be as thorough as possible in order to help the department secure a fair and open competitive procurement.

All scoring of responses will be completed before any cost proposals are opened. Individual evaluators will not be required to rank costs. The procurement manager or a designee will be responsible for ranking costs.

All raw scores must be assigned in compliance with the guidelines provided in this pamphlet.

Only the rating sheets provided should be used. No additional notes or marks should appear elsewhere in the evaluation manual.

The evaluation team shall be instructed in matters concerning the scoring of all responses, as follows:

Each member of the evaluation team is expected to attend both the initial meeting and the Debriefing Meeting, as published in the Calendar of Events and Deadlines.

Each evaluator has been provided a copy of the solicitation (ITB, RFP, ITN), all attachments/amendments, and (if applicable) all vendors' inquiries, together with the written answers provided by the department. Each evaluator will also be provided with a copy of each solicitation response (bid, proposal, application, etc.) which should be screened, evaluated, and scored according to the instructions provided in the solicitation and the evaluation manual (if a manual is produced).

All evaluators should understand the rating sheets, the rating scale, and the weighting method (if weights are used).

All evaluators should understand that each evaluation must be independent of any other; each response must be scored independently of any other. There shall be no communications among evaluators regarding the procurement. No evaluator may discuss his evaluation with any other

evaluator or anyone outside of the evaluation process except for the procurement manager. No attempt by department personnel or others to influence an evaluator's scoring shall be tolerated. If any attempt is made, the evaluator must immediately report the incident to the procurement manager. If such an attempt is made by the procurement manager, the evaluator must immediately report the incident to the Inspector General.