

**DEPARTMENT OF FINANCIAL SERVICES**  
**Standard Terms and Conditions**  
**(Applicable to Competitively Procured Contracts)**

**ATTACHMENT 1**

**1. Entire Contract.**

This Contract, including any Attachments and Addenda referred to herein and attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any preprinted contract terms and conditions included on the Contractor's forms or invoices will be null and void.

**2. Contract Administration.**

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Contract, the order of precedence for the documents is as follows:
- i) Attachment 2, Statement of Work
  - ii) Contract Signature Page
  - iii) Attachments other than Attachments 1, 2, 3, and 4, if any, in the numerical order designated in the Contract Signature Page
  - iv) Attachment 1, Standard Terms and Conditions
  - v) Attachment 3, Price Response
  - vi) Addendum A, Public Records Requirements
  - vii) Addendum B, Data Security Requirements
  - viii) Attachment 4, Form PUR 1000, General Contract Conditions (PUR 1000)
  - ix) Addenda other than Addenda A and B, if any, in the alphabetical order designated in the Contract Signature Page

Notwithstanding the foregoing, if there is any discrepancy between Attachment 2, Statement of Work, and any incorporated portions of the Contract that were provided by the Contractor, the terms most favorable to the Department will prevail. Dates or signatures on any attachments hereto do not serve to negate the order of precedence set forth above. The Contract Signature Page, along with all attachments and addenda thereto other than Addendum C, Selected Portions of the Contractor's BAFO, will be collectively referred to as the "Master Contract."

- b. Approvals. All written and verbal approvals referenced in this Contract must be obtained from the parties' Contract Managers as designated in the Contract Signature Page, or their designees, if designated in writing.
- c. Contract Managers. In the event that different Contract Managers are designated by the Department, the Contractor, or a Participant (or that the contact information for the designated Contract Manager changes) after execution of this Contract or a Participation Agreement, notice of the name and contact information of the new Contract Manager shall be submitted in writing to all affected parties within ten (10) days of the change, and maintained in the respective parties' Contract records. Designation of a new Contract Manager will not require a formal amendment to the Contract or Participation Agreement.
- d. Amendments. This Contract may be amended only by a written agreement between both parties.
- e. Definitions. The terms "Agency Participant," "Local Government Participant," "Participant," and "Participation Agreement" have the meanings set forth in Attachment 2, Statement of Work.

**3. Contract Duration.**

- a. Term. The term of the Contract shall begin and end on the dates indicated on the Contract Signature Page unless terminated earlier in accordance with the applicable terms and conditions.
- b. Renewals. Section 287.058(1)(g), Florida Statutes (F.S.), is hereby incorporated by reference and any renewals provided under the Contract must meet the requirements of this statute. If the Contract Signature Page indicates renewals are available, the Contract may be renewed for the timeframe(s) indicated in the Contract Signature Page.

**4. Deliverables.**

The Contractor agrees to render the services or other units of deliverables, which may be comprised of tasks or activities, as set forth in Attachment 2, Statement of Work. The services or other units of deliverables

specified shall be delivered in accordance with the schedule and at the pricing outlined in Attachment 2, Statement of Work, and Attachment 3, Price Response.

#### **5. Performance Measures.**

The Contractor warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in Attachment 2, Statement of Work; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services will not and do not infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) any person or entity, whether an agent or independent contractor, that performs work on the Contract for the Contractor (Contractor Representative) will comply with any security requirements and processes as provided by the Department, or provided by the Participant, for work done at the Department or other locations. The Department reserves the right to investigate or inspect at any time whether the services or qualifications offered by the Contractor meet the Contract requirements. Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable/minimum requirement does not foreclose the Department's or Participants' remedies in the event those performance standards that cannot be readily measured at the time of delivery are not met.

#### **6. Acceptance of Deliverables.**

- a. Acceptance Process. All deliverables must be received and accepted in writing by the Department's or Participant's (whichever the services have been provided to) Contract Manager before payment, unless advanced payment or partial payment has been authorized in accordance with section 215.422, F.S. The Contract Manager will have fifteen (15) calendar days to inspect and approve the deliverables after receipt.
- b. Rejection of Deliverables. The Department and Participants reserve the right to reject deliverables outlined in Attachment 2, Statement of Work, as incomplete, inadequate, or unacceptable due in whole or in part to the Contractor's lack of satisfactory performance under the terms of this Contract or the applicable Participation Agreement. If the Department's or Participant's Contract Manager does not accept a deliverable within fifteen (15) days, the deliverable will be deemed rejected. Failure to fulfill the appropriate technical requirements or complete all tasks, duties, or activities as identified in Attachment 2, Statement of Work, will result in rejection of the deliverable and the associated invoice. The Department or Participant, at its option, may allow additional time within which the Contractor may remedy the objections noted by the Department or Participant before it issues a notice of default. If the Department's or Participant's Contract Manager allows additional time for the Contractor to correct a rejected deliverable, the Contractor shall work diligently to correct all deficiencies in the deliverable that remain outstanding within a reasonable time or, if a time certain is specified, within the additional time allotted. All work done to correct a rejected deliverable will be done at the Contractor's expense.
- c. Status Reports. If status reports are required as part of the Contract, the Contractor shall timely submit status reports showing each task, activity, and deliverable worked on; attesting to the level of services provided; listing the hours spent on each task, activity, or deliverable; and listing any upcoming tasks, activities, or deliverables.
- d. Completion Criteria and Date. The Contract will be considered complete once all of the deliverables under the Contract have been provided and accepted. The final date for completion of the Contract shall not exceed the Contract duration, including any executed renewals or extensions, or, where applicable, the expiration date of any purchase orders made from the Contract.

#### **7. Financial Consequences for Nonperformance.**

Withholding Payment. In addition to the specific financial consequences explained in Attachment 2, Statement of Work, the state of Florida (State) reserves the right to withhold payment when the Contractor has failed to perform or comply with the provisions of this Contract or any applicable Participation Agreement. These consequences for nonperformance shall not be considered penalties.

#### **8. Dispute Resolution.**

Any claim, counterclaim, or dispute between the Department (on its own behalf or on the behalf of a Participant) and the Contractor relating to this Contract will be resolved as set forth herein. For all claims, the party with the dispute shall submit an affidavit executed by that party's Contract Manager or his or her designee certifying that:

- i. The claim is made in good faith;
- ii. The claim accurately reflects the adjustments for performance; and
- iii. The supporting data provided with such an affidavit are current and complete to the Contract Manager's best knowledge and belief.

The Contractor is obligated to address any cost-related issues with the Department for which the Contractor believes the State is liable and address all costs of every type to which the Contractor is entitled from the occurrence of the claimed event. The Contractor cannot seek a claim under this Contract for an increase in payment.

- a. Informal Resolution Process. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Department's Chief Financial Officer (CFO), or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
  - i. The representatives of the Contractor and the Department shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
  - ii. During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to this Contract will be honored in order that each of the parties may be fully advised of the other's position.
  - iii. The specific format for the discussions will be left to the discretion of the designated Department's and Contractor's representatives but may include the preparation of agreed upon statements of fact or written statements of position.
  - iv. Following the completion of this process, the CFO, or designee, shall issue a written opinion regarding the issue(s) in dispute. The opinion regarding the dispute will be considered the Department's final action.
- b. Continued Performance. Each party agrees to continue performing its obligations under this Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute with the Department over compensation will not be deemed to preclude performance) and without limiting either party's right to terminate this Contract for convenience or default.

## **9. Payment.**

- a. Payment Process. Subject to the terms and conditions established in Attachment 2, Statement of Work, the pricing per deliverable established by the Attachment 3, Price Response, or Attachment 2, Statement of Work, and the billing procedures established by the Department, the Participant agrees to pay the Contractor for services rendered in accordance with section 215.422, F.S. To obtain the applicable interest rate, please refer to: <http://www.myfloridacfo.com/Division/AA/Vendors/default.htm>.
- b. Vendor Rights. A Vendor Ombudsman has been established within the Department. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be reached at (850) 413-5516.
- c. Taxes. The Department and Participant are exempted from payment of State sales and use taxes and Federal Excise Tax. The Contractor, however, will not be exempted from paying State sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Department its taxpayer identification number upon request.
- d. Interim Payments. Interim payments may be made by the Department or Participant at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the respective party's Contract Manager.

## **10. Insurance.**

### **Attachment 1**

- a. Required Coverage. At all times during the duration of the Contract, the Contractor, at its sole expense, and its subcontractors, if any, shall maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Contract. The limits of coverage under each policy maintained by the Contractor will not be interpreted as limiting the Contractor's liability and obligations under the Contract and Participation Agreements. All insurance policies must either be through insurers licensed and authorized to write policies in the State or through a self-insurance program established and operating under the laws of the State. Unless specifically exempted in Attachment 2, Statement of Work, the following are the minimum insurance requirements applicable to this Contract:
  - i. Commercial General Liability Insurance.  
By execution of this Contract, unless the Contractor is a state agency or subdivision as defined by section 768.28(2), F.S., the Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. The Department and Participants, and their employees and officers, must be named as an additional insured on any general liability policies.
  - ii. Workers' Compensation and Employer's Liability Coverage.  
The Contractor shall provide workers' compensation, in accordance with chapter 440, F.S., and employer's liability insurance with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies must cover all employees engaged in any Contract work.
  - iii. Other Insurance.  
At all times during the duration of the Contract, the Contractor shall maintain any other insurance as required in Attachment 2, Statement of Work.
- b. Deductibles. The Department and Participants shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor or subcontractor providing such insurance
- c. Verification of Insurance. Upon execution of the Contract, the Contractor shall provide to the Department written verification of the existence and amount for each type of applicable insurance coverage. Upon receipt of written request from the Department or a Local Government Participant, the Contractor shall furnish to the Department proof of applicable insurance coverage by standard form certificates of insurance.
- d. Failure to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, the Contractor shall immediately notify the Department and Local Government Participants of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

## **11. Termination.**

- a. Contractor Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination, and except as otherwise directed by the Department or Participant issuing the notice, the Contractor shall stop performing services on the date, and to the extent specified, in the notice. The Department may issue a notice of termination or partial termination with respect to the entire Contract. A Participant may only issue a notice of termination or partial termination with respect to its own Participation Agreement. The Contractor shall accept no further work or new services related to the affected deliverables, and shall, as soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate any orders and subcontracts related to the terminated deliverables and settle all outstanding liabilities and all claims arising out of such termination of orders and/or subcontracts, with the approval or ratification of the Department or Participant, as applicable, to the extent required, which approval or ratification shall be final for the purpose of this section. Within ninety (90) calendar days of termination, the Contractor shall submit a request for payment of completed services to the party to whom it provided the terminated services. Requests submitted later than ninety (90) calendar days after termination will not be honored and will be returned unpaid. All services for which the Department or Participant has paid prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to

the Department for any fees or expenses that the Department and Participants may incur in securing a substitute provider to assume completion of those services.

- b. Contractor Obligations after Termination. If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a provider other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor in accordance with Exit Transition requirements in Section 31, below, and Attachment 2, Statement of Work, if expressed therein.
- c. Termination for Convenience. The Department may, in its sole discretion, terminate the Contract in whole or in part at any time by giving thirty (30) days' written notice to the Contractor. The Contractor will not be entitled to recover any cancellation charges or lost profits.

## **12. Notice of Default.**

If the Contractor defaults in the performance of any covenant or obligation contained in the Contract or a Participation Agreement, including, without limitation, any of the events of default listed below, the Contractor will receive notice and an opportunity to cure that is reasonable under the circumstances. The Participant may provide such notice if the default is related to services provided to the Participant under its Participation Agreement. The Department may provide such notice for defaults related to individual Participation Agreements or to the Contract as a whole. The notice will state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that the Department may terminate the Contract (or the Participant may terminate its Participation Agreement) effective as of the date of receipt of the default notice unless the Contractor cures the default within the specified cure period.

## **13. Events of Default.**

Provided such failure is not the fault of the Department or a Participant, or outside the reasonable control of the Contractor, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Contract or a Participation Agreement by the Contractor, including failure to timely deliver a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract or a Participation Agreement;
- b. Failure to maintain adequate progress, thus endangering performance of the Contract or a Participation Agreement;
- c. Failure to honor any term of the Contract or a Participation Agreement;
- d. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;
- e. Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract or a Participation Agreement;
- f. Employment of an unauthorized alien in the performance of the work, in violation of section 274A of the Immigration and Nationality Act, 8 U.S.C. section 1324a;
- g. One or more of the following circumstances, uncorrected for more than thirty (30) calendar days unless within the specified thirty (30) day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract and the Participation Agreements:
  - i) Entry of an order for relief under Title 11 of the United States Code;
  - ii) To the extent permitted by State law, the making by the Contractor of a general assignment for the benefit of creditors;
  - iii) The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property; or
  - iv) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
- h. The commitment of an intentional material misrepresentation or omission in any materials provided to the Department;

- i. Failure to comply with the E-Verify requirements of this Contract; and
- j. Failure to or maintain the insurance required by this Contract.

**14. Indemnification.**

The following provision supplements Section 19, Indemnification, of Attachment 4, PUR 1000:

No provision in this Contract shall be construed to: 1) require the Department or a Participant to hold harmless or indemnify the Contractor; 2) require the Department or a Participant to insure or assume liability for the Contractor's negligence or the negligence of Contractor Representatives; 3) waive the Department's or a Participant's sovereign immunity under the laws of the State; or 4) otherwise impose liability on the Department or a Participant for which it would not otherwise be responsible. Any provision, implication, or suggestion to the contrary is null and void.

**15. Limitation of Liability.**

The Department's liability for any claim arising from this Contract is limited to compensatory damages no greater than \$100,000 or the sum of the unpaid balance of compensation due for goods or services rendered to the Department pursuant to and in compliance with the terms of the Contract, whichever is less. A Participant's liability for any claim arising from this Contract is limited to compensatory damages no greater than \$100,000 or the sum of the unpaid balance of compensation due for goods or services rendered to the Participant pursuant to and in compliance with the terms of the Participation Agreement, whichever is less.

**16. Remedies.**

Nothing in this Contract shall be construed to make the Contractor liable for force majeure events. Nothing in this Contract, including financial consequences for nonperformance, will limit the Department's or a Participant's right to pursue its remedies for other types of damages under the Contract, at law, or in equity. The Department or a Participant may, in addition to other remedies available at law or equity, and upon notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against it. The Department or an Agency Participant may set off any liability or other obligation of the Contractor or its affiliates to the Department or an Agency Participant against any payments due the Contractor under any contract with the State.

**17. Waiver.**

The delay or failure by the Department or a Participant to exercise or enforce any of its rights under this Contract will not constitute or be deemed a waiver of the Department's or Participant's right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**18. Record Retention.**

Unless previously provided (whether in physical form or electronic form, or by way of access or ability to print or extract) to the Department (or, in the case of records relevant to a single Participant, to that Participant), the Contractor shall retain records demonstrating its compliance with the terms of the Contract five (5) years after the expiration of the Contract and all pending matters, or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. If the Contractor is required to comply with section 119.0701, F.S., then compliance with the retention of records in accordance with section 119.0701(2)(b)4., F.S., will fulfill the above stated requirement. If the Contractor's record retention requirements terminate prior to the requirements stated herein, the Contractor may meet the record retention requirements for this Contract by transferring its records to the Department (or, in the case of records relevant to a single Participant, to that Participant) at that time, and by destroying duplicate records in accordance with section 501.171(8), F.S., and, if applicable, section 119.0701, F.S. The Contractor shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.

**19. Intellectual Property.**

- a. In accordance with State law, the Contractor shall not assert any rights to: 1) intellectual property created or otherwise developed specifically for the Department or a Participant under this Contract or any prior agreement between the parties (which includes any deliverables); 2) intellectual property

furnished by the Department or a Participant; and 3) any data collected or created for the Department or a Participant. The Contractor shall perfect the transfer of any such property or data to the Department or applicable Participant(s) upon completion, termination, or cancellation of the Contract and prior to payment of the final invoice. Any data provided must be in a format designated by the Department or Participant receiving the data.

- b. If the Department, Participant, or State has authority to assert a right in any of the property or data, the Contractor shall assist, if necessary, in the assertion of such right.
- c. Proceeds derived from the sale, licensing, marketing, or other authorization related to any such Department-, Participant-, or State-controlled intellectual property rights shall belong to the Department, Participant, or State, unless otherwise specified by applicable State law.
- d. Notwithstanding the foregoing, and unless otherwise specified in Attachment 2, Statement of Work, the Contractor's intellectual property rights that preexist this Contract will remain with the Contractor.
- e. If the Contractor fails to provide, or no longer can provide, a deliverable or service under the Contract that contains or otherwise utilizes intellectual property controlled by the Contractor, the Contractor shall grant the Department and Participants a royalty-free, paid-up, nonexclusive, perpetual license to use, modify, reproduce, distribute, publish, or release to others such Contractor-controlled intellectual property solely for use in connection with the deliverables or services under the Contract and Participation Agreements.

#### **20. Ownership of Property.**

Title to all property furnished by the Department or a Participant under this Contract and deliverables provided to the Department or a Participant shall remain property of the Department or Participant and/or become property of the Department or Participant upon receipt and acceptance. The Contractor shall perfect any transfer of the property to the Department or Participant upon completion, termination, or cancellation of the Contract prior to payment of the final invoice.

#### **21. Nonexclusive Contract.**

This Contract is not an exclusive license to provide the services described in the solicitation or the resulting Contract. The Department or a Participant may, without limitation and without recourse by the Contractor, contract with other vendors to provide the same or similar services.

#### **22. Statutory Notices.**

The employment by any contractor of unauthorized aliens is considered a violation of section 274A(e) of the Immigration and Nationality Act. Pursuant to sections 287.133 and 287.134, F.S., the following restrictions are placed on the ability of persons or entities placed on the convicted vendor list or the discriminatory vendor list:

- a. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.
- b. Discriminatory Vendors. An entity or affiliate that has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

The Contractor shall notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Contract.

#### **23. Compliance with Federal, State, and Local Laws.**



- a. Regulations. The Contractor and all Contractor Representatives shall comply with all federal, state, and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.
- b. Choice of Law. This Contract, and any Participation Agreements executed hereunder, will be governed by and construed in accordance with the laws of the State, without regard for any choice of law statutes.
- c. Rehabilitation Act. If applicable, the Contractor shall ensure that, as to its products and services it develops for the Department or a Participant, electronic and information technology accessibility requirements of the Rehabilitation Act Amendments, 29 U.S.C. section 794 are met. Section 508 of the Rehabilitation Act Amendments, 29 U.S.C. section 794, compliance information on the supplies and services in this Contract (or any Participation Agreement executed hereunder) are available on a website indicated by the Contractor. The Electronic and Information Technology standard can be found at: <http://www.section508.gov/>.
- d. Scrutinized Companies.

The following paragraph applies regardless of the dollar value of the goods or services provided:

By entering into this Contract (or a Participation Agreement), in accordance with the requirements of section 287.135(5), F.S., the Contractor certifies that it is not participating in a boycott of Israel. At the Department's option (or in the case of a Participation Agreement, the Participant's option), the Contract (or Participation Agreement) may be terminated if the Contractor is placed on the Quarterly List of Scrutinized Companies that Boycott Israel (referred to in statute as the "Scrutinized Companies that Boycott Israel List") or becomes engaged in a boycott of Israel.

The State Board of Administration maintains the "Quarterly List of Scrutinized Companies that Boycott Israel" at the following link:

<https://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/GlobalGovernanceMandates.aspx>.

The following paragraph applies only when the goods or services to be provided are \$1 million or more:

By entering into this Contract (or a Participation Agreement), in accordance with the requirements of section 287.135, F.S., the Contractor certifies that it is not on the Scrutinized List of Prohibited Companies (referred to in statute as the "Scrutinized Companies with Activities in Sudan List" and the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List") and, to the extent that it is not preempted by Federal law, that it has not been engaged in business operations in Cuba or Syria. At the Department's option (or in the case of a Participation Agreement, the Participant's option), the Contract (or Participation Agreement) may be terminated if such certification (or the certification regarding a boycott of Israel) is false, if the Contractor is placed on the Scrutinized List of Prohibited Companies, or, to the extent not preempted by Federal law, if the Contractor engages in business operations in Cuba or Syria.

The State Board of Administration maintains the "Scrutinized List of Prohibited Companies" under the quarterly reports section at the following link: <https://www.sbafla.com/fsb/PerformanceReports.aspx>.

#### **24. Employment Eligibility Verification.**

The Contractor is responsible for payment of costs, if any, and retention of records relating to employment eligibility verification. These records are exempt from Chapter 119, F.S. Verification requires the following:

- a. In cooperation with the Governor's Executive Order 11-116, the Contractor must participate in the federal E-Verify System for employment eligibility verification under the terms provided in the "Memorandum of Understanding" with the federal Department of Homeland Security if any new employees are hired to work on this Contract or a Participation Agreement during the term of the Contract. The Contractor agrees to provide to the Department, within thirty (30) days of hiring the new employees, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify System. Information on "E-Verify" is available at the following website: <http://www.dhsuscis.gov/e-verify>.
- b. The Contractor further agrees that it will require each subcontractor that performs work under this Contract or a Participation Agreement to enroll and participate in the E-Verify System if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the "Edit Company Profile"



screen indicating enrollment in the E-Verify System and make such record(s) available to the Department upon request.

**25. Data.**

- a. Data Centers. All data centers used to process and store State data under this Contract or a Participation Agreement shall only be located in the United States.
- b. Requirements of Section 501.171, F.S. If the Department or a Participant shares data that is covered by section 501.171, F.S., with the Contractor in the process of fulfilling this Contract or a Participation Agreement, the Contractor is responsible for fulfilling the requirements of section 501.171, F.S., in the event that the Contractor is responsible for a breach of this data.

**26. Claims for Damages.**

Jurisdiction for any damages arising under the terms of the Contract or an Agency Participation Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit in and for Leon County. Jurisdiction for any damages arising under the terms of a Local Government Participation Agreement will be in the courts of the State, and venue will be in the circuit in which the Local Government Participant is located. The parties waive their right to a jury trial. Except as otherwise provided by law, the parties agree to be responsible for their own attorney's fees incurred in connection with disputes arising under the terms of this Contract and any Participation Agreements.

**27. Independent Contractor.**

The Contractor is an independent contractor and is not an employee or agent of the Department or any Participant.

**28. Subcontracting.**

- a. Consent. Unless otherwise specified in Attachment 2, Statement of Work, all services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior written consent of the Department.
- b. Replacement. The Department may, for cause, require the replacement of any Contractor Representative. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. Access. The Department may, for cause, deny access to the Department's secure information or any facility by any Contractor Representative. A Participant may, for cause, deny access to the Participant's secure information or any facility by any Contractor Representative.
- d. Continuing Obligation. The Department's or Participant's actions under paragraphs b. or c. shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract and all Participation Agreements.
- e. Meetings. The Department and Participants will not deny Contractor Representatives access to meetings within the Department's or Participant's facilities, unless the basis of the Department's or Participant's denial is safety or security considerations.

**29. Guarantee of Parent Corporation.**

In the event the Contractor is a subsidiary of another corporation or other business entity, the Contractor asserts that its parent corporation will guarantee all the obligations of the Contractor for purposes of fulfilling the obligations of the Contract and Participation Agreements. In the event the Contractor is sold during the period the Contract is in effect, the Contractor agrees that it will be a requirement of sale that the new parent company guarantee all the obligations of the Contractor.

**30. Survival.**

The respective obligations of the parties, which by their nature would continue beyond the termination, cancellation, or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, will survive termination, cancellation, or expiration of this Contract.

**31. Exit Transition Services.**

- a. The Contractor has the affirmative obligation to provide to the Department, or its designee, all reasonable services necessary for the transfer of knowledge regarding the services and deliverables provided under the Contract and Participation Agreements (Exit Transition Services) to facilitate the orderly transfer of such services to the Department or its designee, along with an exit transition plan.

Such services may continue for up to six (6) months after termination, expiration, or cancellation of the Contract, at no cost to the Department or Participants.

- b. If necessary, the Contractor also commits to extend this Contract for up to six (6) months past what would otherwise be the termination, expiration, or cancellation of the Contract in order to provide the services to Participants until the transition of the services to the Department or its designee are complete. The Department will exercise this option by giving the Contractor written notice to that effect and will use reasonable efforts to provide such notice at least twenty (20) business days before the impending termination, expiration or cancellation date. For the avoidance of doubt, if such extension occurs, the services described in subsection a., above, may continue for up to six (6) months after the end of the extension period.
- c. For a period of twelve (12) months after cancellation, termination, or expiration of the Contract, the Contractor shall provide Participants access to their data in a format that is acceptable and accessible by the Participants.

**32. Third Parties.**

Neither the Department nor Participants shall be deemed to assume any liability for the acts, omissions to act, or negligence of the Contractor or Contractor Representatives, nor shall the Contractor disclaim its own negligence to the Department, a Participant, or any third party. This Contract and the Participation Agreements executed hereunder do not and are not intended to confer any rights or remedies upon any person other than the parties (which include the Department, Participants, and Contractor). If the Department consents to a subcontract, the Contractor will specifically disclose that the Contract and Participation Agreements do not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Contract and the Participation Agreements.

**33. Employment of State Employees.**

During the term of this Contract, the Contractor shall not knowingly employ or subcontract with any person (including any nongovernmental entity in which such person has any employment or other material interest as defined in section 112.312(15), F.S.), in connection with this Contract, who has participated in the performance of this Contract or the Participation Agreements, or procurement of the Contract, except as provided in section 112.3185, F.S.

**34. Audits.**

The Contractor understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. The Contractor will comply with this duty and ensure that subcontracts issued under this Contract, if any, impose this requirement, in writing, on its subcontractors.

**35. Travel Reimbursement.**

Any travel expenses allowable under this Contract must be submitted in accordance with section 112.061, F.S.

**36. Use of State Funds to Purchase or Improve Real Property.**

Any State funds provided for the purchase of, or improvements to real property, are contingent upon the Contractor or political subdivision granting to the State a security interest in the property at least in the amount of State funds provided, for at least five (5) years from the date of purchase or the completion of the improvements, or as further required by law.

**37. Assignment.**

Unless otherwise required by law, the Contractor shall not sell, assign, or transfer any of its rights, duties, or obligations under the Contract, or under any Participation Agreement executed hereunder, without the prior written consent of the Department. In the event of any assignment, the Contractor remains secondarily liable for performance unless the Department expressly waives such secondary liability. The Department may assign the Contract (and a Participant may assign a Participation Agreement) with prior written notice to the Contractor of its intent to do so.

**38. Lobbying.**

The following replaces the first sentence of Section 18, Lobbying and Integrity, of Attachment 4, PUR 1000:

The Contractor agrees that funds received by it under this Contract, or a Participation Agreement executed hereunder, will not be expended for the purpose of lobbying the Legislature, the judicial branch, or a State

agency in violation of sections 11.062 or 216.347, F.S. Pursuant to the requirements of section 287.058(6), F.S., during the Contract term, the Contractor may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract and Participation Agreements.

**39. Contractor Representatives.**

All Contractor Representatives shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, the Contractor shall furnish a copy of technical certification or other proof of qualification. All Contractor Representatives must comply with all security and administrative requirements of the Department and Participants, and with all controlling laws and regulations relevant to the services they are providing under the Contract and Participation Agreements. The State may conduct, and the Contractor shall cooperate in, a security background check or other assessment of any Contractor Representative. The Department or a Participant may refuse access to, or require replacement of, any Contractor Representative for cause, including, but not limited to, lack of technical or training qualifications, quality of work, change in security status, or noncompliance with the Department's or Participant's security or administrative requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract and Participation Agreements. The Department may reject and bar from any facility, for cause, any Contractor Representatives.

**40. Notices.**

Where the terms "written notice" or notice "in writing" are used in the Master Contract to specify a notice requirement, said notice shall be deemed to have been given:

- a. when personally delivered;
- b. when transmitted via facsimile with confirmation of receipt or email with confirmation of receipt if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid);
- c. the day following the day (except if not a business day, then the next business day) on which the same has been delivered prepaid to a recognized overnight delivery service; or
- d. on the date actually received or the date of the certification of receipt.