



**PROCUREMENT SERVICES DEPARTMENT
INVITATION TO BID**

DATE ISSUED: **March 18, 2016**

ITB DUE DATE: **April 15, 2016**

ITB DUE TIME: **2:00PM EST**

RESPONSE DELIVERY LOCATION: **Florida Virtual School
Procurement Services Department
2145 Metrocenter Blvd., Suite 100
Orlando, Florida 32835**

ITB TITLE: **Global Infrastructure Servers**

ITB NUMBER: **ITB-2016-7122-9250-LM**

LOCATION: **Florida Virtual School
Procurement Services Department
2145 Metrocenter Blvd., Suite 100
Orlando, Florida 32835**

DIRECT ALL INQUIRES TO: **Lisa Maldonado
Purchasing Agent
lmaldonado@flvs.net**

NOTICE TO ALL INTERESTED PARTIES: Subject to the conditions, provisions and the enclosed specifications, sealed responses will be received at this office until the stated date and time.

Responses received after the stated date and time, whether presented in person, received by U.S. Mail, or by any other delivery method will not be accepted.

Florida Virtual School

**Kay K. Syed
Director, Procurement Services**

FLORIDA VIRTUAL SCHOOL

**INVITATION TO BID
ITB-2016-7122-9250-LM
Global Infrastructure Servers**

Sealed responses to establish a contract for a Global Infrastructure Servers provider will be received by Florida Virtual School, in the Procurement Services office on the first floor, 2145 Metrocenter Boulevard, Suite 100, Orlando, Florida 32835.

Please note that receipt of response means DELIVERED AND DATE/TIME STAMPED RECEIVED IN THE PROCUREMENT SERVICES OFFICE. Responses delivered to the building, but not delivered to the Procurement Office and date/time stamped as received, will not be considered as received for the purpose of this solicitation process. Responses must be delivered in a SEALED package with the ITB name, ITB number, and opening date/time clearly marked on the outside of the package.

Notice to Bidders: All visitors are required to check-in at the Reception Desk on the 1st floor. If you are hand delivering a response, the receptionist will date stamp your response and notify procurement that a response has been dropped off. A record of all deliveries and delivery times will be documented at the Reception Desk as well as in Procurement Division.

You are cautioned to write all descriptions and prices in a legible manner so that there will be no doubt as to the intent and scope of your response. No oral, telegraphic (facsimile/scanned), telephone responses or modifications to responses, will be accepted.

Responses will not be accepted or considered after the specified time and date listed on page 1.

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BID IDENTIFICATION LABEL

NOTICE TO ALL RESPONDENTS: For your convenience, the label below has been provided to properly identify your bid submittal. Place your bid in a sealed envelope, type or print company name and address in area provided below and affix the label on the outer surface of the envelope or package.

All visitors are required to check-in at the Reception Desk on the 1st floor. If you are hand delivering a bid, the receptionist will date stamp your package and notify procurement that a package has been dropped off. A record of all deliveries and delivery times will be documented at the Reception Desk as well as in Procurement Services.

PLEASE FILL OUT THE LABEL BELOW AND ATTACH IT TO YOUR ITB REPLY ENVELOPE.

Cut out label and tape to outer sealed bid envelop or package.

✂-----

DO NOT OPEN - SEALED BID - DO NOT OPEN	
Global Infrastructure Servers ITB-2016-7122-9250-LM	
BID TO BE OPENED ON: APRIL 15, 2016 AT <u>2:00 P.M.EST</u>	
From:	_____

DELIVER TO:	FLORIDA VIRTUAL SCHOOL ATTN: LISA MALDONADO PROCUREMENT SERVICES 2145 METROCENTER BOULEVARD, SUITE 100 ORLANDO, FL 32835

NON SUBMITTAL RESPONSE FORM

If your company is not submitting a response to this Invitation to Bid, please complete and email this form prior to the due date established in the ITB document.

Florida Virtual School
Attn: Lisa Maldonado
Procurement Services
2145 Metrocenter Boulevard, Suite 100
Orlando, FL 32835
Email: lmaldonado@flvs.net

This information will assist Procurement Services in the preparation of future ITBs.

**ITB-2016-7122-9250-LM
Global Infrastructure Servers**

Company Name: _____

Contact Person Name & Title: _____

Address: _____

Telephone: _____ Fax: _____

Email Address: _____

Please check reason for a "no bid."

- Specifications "too tight", geared toward one brand or manufacturer (explain below)
- Insufficient time to respond.
- Specifications unclear (explain below)
- We do not offer this product/service or an equivalent.
- Our product schedule does not permit us to perform
- Unable to meet specifications
- Unable to meet bond requirements
- Unable to hold prices firm throughout the term of the contract period
- Unable to meet insurance requirements
- Other: _____

Print Name: _____

Signature: _____ Date: _____

If you are submitting this form, than **only this form needs to be returned**, please do not return the entire bid package.

DEFINITION OF TERMS

Addenda - Written or graphic instruments issued prior to the date for opening of bids, which modify or interpret the Bid Documents by additions, deletions, corrections or clarifications.

Agreement - The written Agreement between FLVS and CONTRACTOR covering the Work to be performed; other Contract Documents are incorporated in or referenced in the Agreement and made a part thereof as provided therein.

"And" - "Or" - The word "and" shall also mean "or", and the word "or" shall also mean "and" whenever the contents or purpose so require.

Contract - The "Contract" shall mean the Contract Documents as defined and listed herein, advertisement, Request for Bid, Scope of Work, Contract Agreement, Payment and Performance Bonds, General and Special Conditions, together with all Addenda and supplemental agreements concerning the project.

Contractor - The "Contractor" shall mean the individual or firm offering these goods and services, which executed this Contract, and which shall be legally obligated, responsible, and liable for providing and performing any and all of the goods, services, work and materials, including services and/or work of sub-contractors, required under the covenants, terms and provisions contained in this Contract and any and all Amendments thereto.

FLVS – Florida Virtual School

Laws and Regulations - Laws, Rules, Regulations, Ordinances, and/or court or administrative Orders of the federal, state and school board.

Lobbying - Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the Governmental decision of a Board Member or District Personnel after advertisement and prior to the posted recommendation on the award of this contract.

Notice of Award - The written notice of the acceptance of the Bid from FLVS to the Contractor.

Notice to Proceed - The written notice issued by FLVS to the CONTRACTOR authorizing the Contractor to proceed with the Work and establishing the date of commencement of the contract time.

Bid - An executed offer submitted by a Bidder in response to a request for bids and intended to be used as a basis for negotiations for a contract.

Bidder - For the purposes of this bid, any person, firm, corporation or agency submitting a response to this Request for Bid or their duly authorized representative. The word Bidder or bidder may be used interchangeably within the Request for Bid.

Responsible Bidder – Bidder who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.

Scope of Work - Includes the Work, as the term is herein defined, as well as the responsibility for performing and complying with all incidental matters pertaining thereto, as set out in the Contract Documents.

1. INTRODUCTION

1.1 Purpose: Florida Virtual School (FLVS), hereafter referred to as the "district" or "FLVS", is seeking responses from qualified bidders interested in providing managed hosting and infrastructure services.

1.2 District Profile: FLVS is a fully accredited, statewide public school district with an 18-year history of successfully educating students. An award-winning, international leader in online learning, FLVS offers more than 150 free courses to Kindergarten–Grade 12 public, private, and homeschool Florida students.

FLVS is part of the Florida public education system and serves students in all 67 Florida districts. FLVS also serves students, schools, and districts around the nation through tuition-based instruction, curriculum provision, and training. Enrollment is open to public, private, and home school students. All students work from home or school and all instructors work in a remote environment.

In 2000, the Florida Legislature established FLVS as an independent educational entity with a gubernatorial appointed board. FLVS is the only public school with funding tied directly to student performance.

For the 2014-15 school year, FLVS had more than 206,400 students successfully complete more than 448,900 semester courses.

1.3 Award

Bids shall be awarded based on the lowest, responsive, responsible bidder, which meets specifications with consideration being given to the specific quality of the product, conformity to the specifications, suitability to school needs, delivery terms, qualifications, and past performance. The final award will be based on Board approval.

FLVS reserves the right to make multiple awards in the best interest of the district. In such cases where an award is made to more than one responsive bidder, FLVS shall apportion the work among the various providers in such manner and at such time as it deems appropriate under the circumstances in its sole discretion and no minimum amount or proportion of work is guaranteed to any single provider or class of providers.

1.4 Length of Contract and Renewals

The intent of this Bid is to establish a contract for a period of (2) two years from the date of award, during which time the successful Bidders shall guarantee fixed pricing on items awarded, as specified in the Bid.

The district reserves the right to renew any or all prices, terms, conditions and specifications of the contract, for up to two (3) three additional one-year period(s), upon mutual agreed by both the District and awarded Contractor. Renewals must be submitted in writing with the signature of the awarded Contractor's Authorized Representative.

1.5 Pricing

1.5.1 Bid Prices will be accepted and considered by the following methods: (1) The bid price per item, per month, (2) The total bid price for all items for these specifications in an "All or None" Bid, per Lot, and/or (3) Items may be grouped in an "All or None" Bid for a particular group of items while other items are bid per item. Florida Virtual School reserves the right to award the bid by any of these methods.

1.5.2 Bid prices shall include all shipping, transportation, fuel, supervision, equipment, set-up services and related items to complete the work in accordance with this specification.

1.5.3 Quantities: The quantities as shown on the Bid Price Sheet are estimates only and in no way obligate the District to purchase these amounts. The estimates are intended as a guide in submitting your Bid. The actual quantities purchased under this Bid may vary.

2. **SCOPE OF SERVICES**

Florida Virtual School (FLVS) is soliciting responses for managed hosting and infrastructure services to include:

2.1 Customer control panel that supports

- 2.1.1 Complete account control
- 2.1.2 User account creation and access levels
- 2.1.3 vpn access related to associated devices
- 2.1.4 Complete ticketing system for technical support
- 2.1.5 Ability to add devices and services
- 2.1.6 Control specifications of virtual machines on demand

2.2 Infrastructure integrity that supports

- 2.2.1 99.999 uptime
- 2.2.2 Redundant network backbones
- 2.2.3 Worldwide gigabit network backchannel with nodes in all inhabited continents
- 2.2.4 24/7/365 support staff with on-call dedicated technical manager(s)

2.3 In addition to the hardware and software requirements specified above the provider would be expected to provide the following support services.

- 2.3.1 Vendor must be based in the United States of America.
- 2.3.2 Vendor must offer multiple regional data centers within the United States of America.
- 2.3.3 24/7/365 support staff with on-call dedicated technical manager(s) for managed servers
- 2.3.4 24/7/365 support staff for normal tech support needs and emergencies
- 2.3.5 Nimsoft Monitoring - Premium Application (or equivalent)
- 2.3.6 Security Audit Report SOC 2 or Equivalent
- 2.3.7 API access to customer portal data/metrics

2.4 Dedicated Support Team:

- Technical Account Manager
- Senior Database Administrator
- Senior Systems Engineer
- Extended Support Team specialized and committed to our account

2.5 Dedicated Customer Portal:

- Comprehensive access to your hosted environment
- Support ticket interaction, monitoring trends
- On-demand reports including security, vulnerability and more

2.6 Managed hosting Service Level:

- 100% Power and network uptime guarantee
- 1 Hour hardware replacement guarantee
- 15 minute critical incident response time

2.7 Managed Backup:

- Fully managed disk-to-disk based backup
- Dedicated backup network
- Unmetered backup traffic

2.8 Bandwidth:

- Pooled Allocated Bandwidth for the Managed Environment
- Unmetered private network
- No bandwidth overage charges

2.9 What is your Disaster Discovery Plan for your customers?

2.10 What is your company's ratio of the number of servers to the number of customers you contract with?

2.11 Describe the frequency and type of communication channels employed by your dedicated support team to regularly review and communicate with the FLVS Team that your services are meeting our requirements on a consistent basis.

2.12 The following product specifications required are below as follows. Check the Yes, No, or Better box:

Item Description	Does your server meet the specifications? Please check YES or NO box.		Check if you can provide Better Specifications as listed
	YES	NO	BETTER
Managed Bare Metal Servers x2 (with equivalent or better specifications as listed)			
Server: Single Processor Quad Core Xeon 1270 V3 – 3.5GHZ (Haswell) – 1x 8MB Cache			
Second Hard Drive: 300 GB SA-SCSI 15K RPM			
Public Network Port: 1Gbps Redundant Public Uplinks*			
Database Software: MySQL for Linux			
First Hard Drive: 300 GB SA-SCSI 15K RPM			
Disk Controller: RAID			
Managed Resource: Managed Server			
Uplink Port Speeds: 1Gbps Redundant Public & Private Network Uplinks			
RAM: 16 GB DDR3 1333			
Public Bandwidth: 20000 GB Bandwidth			
Primary IP Addresses: 1 IP Address			
EVault: 60GB EVault Disk to Disk Enterprise Backup			
Operating System: CentOS 6.x (64 bit)			
Advanced Monitoring: Monitoring Package - Managed Services Premium Application			
Managed Virtual Servers x 2 (with equivalent or better specifications as listed)			
Computing Instance: 4 x 2.0 GHz Cores			
EVault: 60GB EVault Disk to Disk Enterprise Backup			
Advanced Monitoring: Monitoring Package - Managed Services Premium Application			
Public Network Port: 1Gbps Public Uplink*			
Primary IP Addresses: 1 IP Address			
Public Bandwidth: 5000 GB Bandwidth			
First Disk: 100 GB (LOCAL)			
Managed Resource: Managed Virtual Guest			
RAM: 6 GB			
Uplink Port Speeds: 1 Gbps Public & Private Network Uplinks			
Operating System: CentOS 6.x - Minimal Install (64 bit)			
Second Disk: 300 GB (LOCAL)			
Un-managed Virtual Server (with equivalent or better specifications as listed)			
Computing Instance: 1 x 2.0 GHz Core			
RAM: 2 GB			
Primary IP Addresses: 1 IP Address			
Second Disk: 300 GB (LOCAL)			
Operating System: CentOS 6.0 - LAMP Install (64 bit)			
First Disk: 100 GB (LOCAL)			
Database Software: MySQL for Linux			
Public Bandwidth: 1000 GB Bandwidth			

Item Description	Does your server meet the specifications? Please check YES or NO box.		Check if you can provide Better Specifications as listed BETTER
	YES	NO	
Advanced Monitoring: Monitoring Package - Basic			
Hardware & Software Firewalls: APF Software Firewall for Linux			
Public Network Port: 100 Mbps public uplink*			
Primary IPv6 Addresses: 1 IPv6 Address			
Uplink Port Speeds: 100 Mbps Public & Private Networks			
Un-managed Virtual Server (with equivalent or better specifications as listed)			
Computing Instance: 2 x 2.0 GHz Cores			
Advanced Monitoring: Monitoring Package - Basic			
Primary IP Addresses: 1 IP Address			
Public Bandwidth: 5000 GB Bandwidth			
Database Software: MySQL for Linux			
Operating System: CentOS 6.x - LAMP Install (64 bit)			
RAM: 8 GB			
Public Network Port: 1 Gbps public uplink*			
First Disk: 100 GB (LOCAL)			
Uplink Port Speeds: 1 Gbps Public & Private Networks			
Primary IPv6 Addresses: 1 IPv6 Address			
Second Disk: 300 GB (LOCAL)			
CDN Bandwidth: CDN Pay as You Go Bandwidth			
Includes - CDN Storage: CDN No storage (origin pull)			
Includes - CDN SSL Bandwidth: SSL CDN bandwidth			
Performance Storage NFS: File Storage (Consistent Performance)			
Performance Storage IOPS: 200 IOPS			
Storage Space: 500GB Storage Space			
Performance Storage NFS: File Storage (Performance)			
Performance Storage IOPS: 2000 IOPS			
Storage Space: 500 GB Storage Space			
Dedicated Firewall: Hardware Firewall			
Fortigate 310B dedicated firewall made by Fortinet (or equivalent)			
Proxy Load Balancer: Load Balancer 2,500 VIP Connections			
Able to balance limits between http and ssl connections via control panel			
StorageLayer Additional Storage: StorageLayer additional storage			
120GB allocated			
Archive Storage Repository Disk Usage: Image Template Storage Usage (usage based monthly fee)			

3. BID INSTRUCTIONS

Bid Due Date: All Bids **must** be received no later than **2:00 p.m. EST, on April 15, 2016**. If a Bid is transmitted by US Mail or other delivery method, the Bidder will be responsible for its timely delivery to Florida Virtual School, Procurement Services 2145 Metrocenter Boulevard, Suite 100, Orlando, FL 32835. Any Bid received after the stated time and date, will not be considered and will be returned unopened to the Bidder(s).

3.1 Bidders **must submit one (1) original with manual signature, (1) one copy of the Bid, and one electronic copy on USB** for document management purposes. Bid must be sealed and clearly labeled on the outside of the package. The legal name, address, Bidder's contact person, and telephone number must also be clearly annotated on the outside of the package. Once accepted, all original Bids and any copies of Bid become the sole property of the School and may be retained by the School or disposed of in any manner the School deems appropriate.

3.2 All Bids must be signed by an officer or employee having authority to legally bind the Bidder(s). Any corrections of unit prices must be initialed. This includes corrections made using correction fluid (white out) or any other method of correction. Bidders should become familiar with any local conditions which may, in any manner, affect the services required. The Bidder(s) is/are required to carefully examine the ITB terms and to become thoroughly familiar with any and all conditions and requirements that may in any manner affect the work to be performed under the contract. No additional allowance will be made due to lack of knowledge of these conditions. Bids not conforming to the instructions provided herein will be subject to disqualification at the sole option of FLVS.

Any bid may be withdrawn prior to the date and time the bid is due. Any Bid not withdrawn will constitute an irrevocable offer, for a period of 90 days, to provide the School with the services specified in the Bid.

3.3 Time Schedule. The School will attempt to use the time schedule as indicated below:

Solicitation of ITB	March 18, 2016
Request for Information cut-off	March 28, 2016 12:00PM EST
Bid Opening (only respondent names will be announced at the opening)	April 15, 2016 2:00PM EST
Intent to Award- (Tentative Date)	April 22, 2016
Recommendation to Board of Trustees	TBD

3.4 REQUEST FOR INFORMATION

Any questions concerning the scope of services, terms and conditions or other Bid requirements shall be directed in writing to the Procurement Services department prior to the deadline for questions as indicated below. Inquiries must reference the Bid number and the date of Bid opening. Those interpretations which may affect the eventual outcome of this Bid will be furnished in writing to all prospective Respondents. No interpretation shall be considered binding unless it is provided in writing by the Procurement Services Department. Any interpretation to a Bidder shall be made only by amendment duly issued. All Amendments will be posted and disseminated on the following websites:

- Demandstar (<http://www.demandstar.com>)
- Florida Virtual School Procurement Opportunities (<http://www.flvs.net/areas/contactus/Pages/Procurement%20Opportunities/ITBsListing.aspx>)

3.4.1 Questions must be received before **12:00PM Eastern Standard Time on March 28, 2016**. Questions not received by this date and time will not be considered.

3.4.2 Prior to submitting the response, it shall be the sole responsibility of each Bidder to determine if addenda were issued and, if so, to download such addenda from Demandstar or FLVS.net for attachment to the response (**Appendix E**).

NOTE: If you download a copy of this response from Demandstar you will be notified by Demandstar (as you listed, email or fax) of postings during the life of this solicitation. **You will not be notified if your downloaded a copy of this response from FLVS.net.**

3.4.3 All questions must be in writing and emailed to the Procurement Agent named below. The request must contain the Bidder's name, address, telephone/fax numbers, and email address. Questions

must be received before 12:00 p.m. EST on March 28, 2016. Questions not received by this date and time will not be considered. After thoroughly reading this ITB, Bidders may direct questions, to:

Lisa Maldonado

Purchasing Agent

lmaldonado@flvs.net

3.5 Any corrections or amendments will be posted as addenda issued no later than five (5) days prior to the response due date. Bidders should not rely on any statements other than those made in this ITB or written response to questions and/or addendum to this ITB. Where there appears to be a conflict between the ITB and any addenda issued, the last addendum issued will prevail.

3.6 Restrictions on Contacting FLVS

Upon the issuance of this ITB, all contact with the FLVS **must** be made through the above designated contact person. The Bidder **must** limit communication with the designated contact to the means specified in this document. Other employees and representatives of FLVS and the participating agencies are instructed not to answer questions regarding the ITB or otherwise discuss the contents of the ITB with the Bidders or its representatives. Any contacts made with other employees and representatives of FLVS will be reported to FLVS. Bidders shall not, under the penalty of law, offer any gratuities, favors or anything of monetary value to any officer or employee of FLVS in connection with this competitive procurement.

3.7 Bidder to this Response or persons acting on their behalf are specifically requested not to contact Board of Trustees, members, staff, or Committee Members during the course of the Response and Selection process. All procedural matters shall be directed to Procurement/Purchasing Agent. Evaluation Committee members or other School employees shall not be contacted or approached by representatives of any potential Bidder to this ITB. Contact or communication initiated by any responding firm may result in rejection of the Response.

3.8 Upon award recommendation or thirty (30) days after opening, whichever is earlier, any material submitted in response to this ITB will become a public record and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (Public Records Law). Bidders must claim the applicable exemptions to disclosure provided by law, in their response to the ITB, by identifying materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. FLVS reserves the right to make any final determination of the applicability of the Public Records Law.

3.9 Posting Of Tabulations/Recommendation. ITB tabulations with recommended awards will be posted for review by the interested parties. Visit <http://www.demandstar.com> or <http://www.flvs.net/areas/contactus/Pages/Procurement%20Opportunities/ITBsListing.aspx> for bid/response links and in the Procurement Services Department, at 2145 Metrocenter Boulevard, Suite 100, Orlando, FL 32835. Results will remain posted for a period of 72 hours. Failure to file a Notice of Intent to Protest within the time prescribed in Section 120.57(3) b, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. If the tabulation with the recommendation of award is not posted by said date and time, Procurement Services will endeavor to post a "Notice of Delay of Posting" to inform all Bidder of the delay and anticipated posting date and time.

NOTE: If you download a copy of this response from Demandstar you will be notified by Demandstar (as you listed, email or fax) of postings during the life of this solicitation. **You will not be notified if you download a copy of this response from FLVS.net.**

3.10 Bid Protests: Any person who believes they are adversely affected by any specification in this Bid or ITB or any decision or intended decision concerning this Bid or ITB and who wishes to protest such specification, decision, or intended decision shall file a Notice of Intent to Protest in accordance with section 120.57(3), Florida Statutes. A formal written protest must be accompanied by a bond payable to FLVS in an amount equal to one percent (1%) of the total value of the proposed contract. Security shall be in the form of a bond, a cashier's check, or money order. Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security within the time frame set forth in section 287.042(2)(c), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

3.11 All responses must be prepared and submitted in accordance with the instructions provided in this ITB. Each response received will be reviewed to determine if the response is responsive to the submission requirements outlined in the ITB. A responsive response is one that follows the requirements of the ITB, includes all documentation, supporting exhibits, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your response non-responsive.

3.12 FLVS will receive sealed responses until the date and time indicated on this response cover page. Responses must be delivered to the Procurement Services Office at the stated address and will be recorded at the stated date/time. Responses must be delivered in sealed envelopes, clearly marked on the outside as to response

name, response number, and opening date. Responses received in unidentifiable envelopes are sent at the Bidder's risk. Responses received after the date/time indicated on the response cover will be date/time stamped received and returned to the Bidder unopened. It will be the Bidder's responsibility to get the response to the correct location and on time. Please note that the official clock, for the purpose of receiving responses, is located in the Procurement Services Division.

3.13 **Purchase Order:** The award of the response shall not constitute an order. Before any shipments are made or services rendered, Bidder must receive a purchase order. Shipments shall be made as specified on the purchase order, conforming to the response form, specifications, and general instructions.

4. **PREPARATION OF BIDS AND CONTENTS**

In order to ease comparability and enhance the review process, it is required that bids be organized in the manner specified below with tabs. Failure to provide the required organized information will affect the evaluation of the bid and may be grounds for disqualification. It is required that all attached appendix forms be completed and returned with your Bid in the proper organized manner as specified below. If any form is not-applicable, form should be returned stating non-applicable. An original manual signature is required.

Tab 1 Firm's Qualifications: Appendix A, B, C, D, F, G, and H

In order to be evaluated and considered for award, Bidder must demonstrate adequate related experience, sufficient staff, references, and financial stability to FLVS.

Tab 2 Experience of Firm and Dedicated Staff: Provide a summary of your firm's experience in delivering similar services to the one FLVS is requesting in this ITB. Make every attempt to match experiences to specific requirements listed in this ITB in order to illustrate specific experiences that qualify your firm to deliver this solution. Also include in this section, your firm's capacity for delivering this proposed solution--specifically, available staff, available product inventory, and necessary expertise.

Tab 3 Financials: Vendor must submit:

- Vendor Statement of Qualifications (See **Appendix A**)

And one of the following financial information:

- A Statement regarding firm's financial stability including information as to current or prior bankruptcy proceedings.
- Dun & Bradstreet (D&B) Supplier Evaluation Report (SER) or similar type report shall be delivered to FLVS Procurement Services. All costs associated with this report shall be borne by Respondent.
- Certified Financial Statements – Copy of audited financial statement for each of the last three years, by an independent certified public accounting firm or Federal Tax Return for previous years.

Type of Business (Refer to Appendix B): The Bidder shall identify the type of business entity involved (e.g.; sole proprietorship, partnership, corporation, joint venture, etc.) The Bidder shall identify whether the business entity is incorporated in Florida, another state, or a foreign country. Indicate years in business; changes in ownership; bank reference; and other information to verify financial responsibility.

If the Bidder is a corporation, provide a copy of the certification from the Florida Secretary of State verifying Bidder's corporate status and good standing, and in the case of out-of-state corporation, evidence of authority to do business in Florida

Provide the Federal Employer Identification Number of the Bidder. In the case of a sole proprietorship or partnership, provide the Social Security numbers for all owners/partners.

Principals: The Bidder must provide the name and address of all persons or entities serving or intending to serve as principals in the Bidder's firm.

License Sanctions: List any regulatory or license agency sanctions. Florida Virtual School may perform a background check on bidder with all state and regulatory agencies.

Drug-Free Workplace: If applicable, provide a statement concerning the Bidder's status as a Drug-Free Work Place. (Reference **Appendix G**) Bids received which are equal with respect to price, quality, and service and that have provided proper certification that a business has implemented a drug-free workplace program, shall be given preference in the award process.

Conflict of Interest Statement: See "Statement of Affirmation and Intent" (Refer to **Appendix C**) included in this package.

Tab 4 References – Appendix I

List at least three current or recently completed projects (Florida projects preferred), which best illustrate the experience of the firm. Include the following for each:

- Name and location of the engagement.
- The nature of the firm's responsibility on the engagement.
- Name, address, telephone, and facsimile number of a client who may be contacted as a reference.
- Date engagement was completed or is anticipated to be completed.
- Size of engagement
- Services for which the firm's staff was responsible for.
- Present status of the engagement.
- The firm's key professionals involved on the engagement and who of that staff would be assigned to the program covered by this ITB.

Tab 5 Scope of Work: (Refer to Section 2)

Include chart of Specifications Required filled out, section 2.11

Tab 6 Price: Appendix J

Provide a summary of all pricing for the entire bid. Provide the completed Bid Price Form

5. EVALUATION PROCESS

FLVS will not be under any requirement to complete the evaluation by any specific date and reserves the right to suspend or postpone the evaluation process should the need arise due to budget constraints, time constraints or other factors as directed by the Board. However, it is anticipated that the review/evaluation process will be completed in a timely manner. Procurement Services will endeavor to notify in writing all bidders of any unexpected delays as noted above or otherwise determined.

6. GENERAL TERMS AND CONDITIONS

- 6.1 FLVS may, at its sole and absolute discretion, reject any and all, or parts of any and all responses; re-advertise this ITB; postpone or cancel, at any time, this ITB process; or waive any irregularities in this ITB, or in the responses received as a result of this ITB. FLVS also reserves the right to request clarification of information from any Bidder.
- 6.2 All expenses involved with the preparation and submission of responses to FLVS, or any work performed in connection therewith, shall be borne by the Bidder. No payment will be made for any responses received, any other effort required of or made, or expenses incurred by the Bidder.
- 6.3 FLVS has implemented a Purchasing Card Program to streamline our procurement process.
 - 6.3.1 By making purchases with the Visa Purchasing Card, we can more effectively control our procurement activities and achieve a significant cost savings over our current paper purchasing/payment system. Our Awardees also achieve cost saving results by accepting our Purchasing Card.
 - 6.3.2 The "School District" may, at their sole option, elect to make payment by use of a Purchasing/Bank/Charge card. No additional charges, fees or price increases may be assessed by the vendor for the use of Procurement/Charge/Bank cards during the life of any award resulting from this contract, and any applicable extensions.
- 6.4 This ITB and the related responses of the selected Bidder(s) will constitute the basis of the formal contract between the Bidder(s) and FLVS. No modification of this ITB, except by addendum issued by FLVS, shall be binding on FLVS.
- 6.5 It is understood and agreed between the parties hereto that FLVS shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this ITB. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this ITB, FLVS shall immediately notify Awardee(s) of such occurrence and this ITB shall terminate on the last day of the fiscal year for which an appropriation(s) was (were) received without penalty or expense to FLVS of any kind whatsoever.

- 6.6 The awards made pursuant to this ITB are subject to the provisions of Chapter 112, Florida Statutes. All Bidders must disclose, with their response, the name of any officer, director, or agent who is also an employee of FLVS. Further, all Bidders must disclose the name of any FLVS employee who owns directly, or indirectly, an interest of five percent (5%) or more in the Bidder or any of its branches/subsidiaries.
- 6.7 Purchasing Agreements with Other Government Agencies. All Bidders submitting a response to this Invitation to Bid agree that such response also constitutes a bid to all political subdivisions under the same conditions, for the same prices and the same effective period as this bid, should the Bidder feel it is in their best interest to do so.
- This agreement in no way restricts or interferes with the right of any political subdivision to rebid any or all items.
- 6.8 Bidders, their agents, and/or associates are subject to the provisions of the Florida Sunshine Law, Florida Statute 286.011.
- 6.9 There shall be no discrimination permitted by any party under this engagement as to race, sex, color, creed, national origin, or handicap.
- 6.10 The Procurement Director may terminate this contract in whole or in part when it is in the best interest of FLVS. Notification of termination must be in writing and issued by the Procurement Director or designee. This action will be publicly posted as described above.
- 6.11 Should any Bidder fail to enter into a contract with FLVS, on the basis of the submitted response by said Bidder, the Bidder acknowledges that Bidder shall be liable to FLVS for any lost revenue.
- 6.12 Venue for any and all legal action regarding or arising out of the transactions covered herein shall be solely in FLVS Court in and for Orange County, State of Florida. The laws of the State of Florida shall govern this transaction.
- 6.13 Attached as Appendix K, is the most current version of FLVS' standard contract. By submitting a response to this ITB, submitters acknowledge and agree that they have reviewed this standard form and have no objection to it. Further, if selected by FLVS, Submitters acknowledge and agree that they will execute this standard form contract, subject to FLVS' right to make revisions and modifications thereto prior to execution, where FLVS has determined, in its sole discretion that such revisions or modifications are in FLVS' best interest.
- 6.14 This contract or agreement is personal to the parties herein and may not be assigned, in whole or in part, by the Bidder without prior written consent of the School. The Bidder herein shall not assign payments under this contract or agreement without the prior written consent of the School.
- 6.15 With the consent and agreement of the Awardee(s), purchases may be made under this response by other school boards and governmental agencies Services are to be furnished in accordance with the Contract of said product(s) and/or service(s) resulting from this Response. Such purchases shall be governed by the same terms and conditions as stated herein. It is hereby made a part of this ITB that the submission of any response, in response to this advertised request, shall constitute a response made under the same conditions, for the same contract price, and for the same effective period as this response to all public entities if they so request.
- 6.16 All accounting and invoicing correspondence must reference FLVS purchase order number. Invoicing for rental equipment or "tools of trade" will not be allowed. Rental equipment for special circumstances must be pre-approved by FLVS. Invoices and requests for payment must be accompanied by detailed cost sheets for each project denoting equipment, labor, disposal fees, etc. These items must be received by FLVS consultant/representative at least ten (10) working days before the deadline for submission of Awardee's request for payment dates.
- 6.17 Insurance Requirements: Awardee(s) shall obtain and maintain in full force prior to performance and effect throughout the initial Term and any Renewal Term no less than 5 years past the completion of the project with a reputable insurance carrier qualified to do business in the state or states in which the Premises are located and having a rating of not less than "A" from A.M. Best & Company.
- 6.17.1 All policies of insurance shall be written on a per occurrence basis. All such insurance policies shall, to the extent permitted under applicable law, provide that (a) the policies shall not be cancelled nor shall any material change be made therein without at least ten (10) days prior written notice to Florida Virtual School (FLVS) and (b) FLVS is to be named as an additional insured party with respect to Bidder activities.
- 6.17.2 General Liability Insurance of not less than One Million (\$1,000,000.00) per occurrence and Two Million (\$2,000,000.00) General Aggregate for bodily injury, property damage liability, personal injury, advertising liability, and shall include errors and omissions coverage. The General Liability

policy should be on CGL 0001 (12/04) or equivalent form. Insurance shall be primary and non-contributory to any other insurance of the certificate holder and shall name the certificate holder, owners and any other required by written contract or an agreement as additional insured.

6.17.2.1 Policy should be endorsed with a “per project aggregate”. All coverage’s should include contingent liability and contingent property damage liability. If coverage is written on a Claims made basis the retroactive and continuity dates should be at least the first day services begin with FLVS. Policy should include an endorsement waiving all rights to subrogate against FLVS.

6.17.2.2 The above policies for General Liability insurance must be so written as to include Contingent Liability and Contingent Property Damage Insurance to protect the contract against claims arising from the operation of subcontractors.

6.17.3 Worker's Compensation Insurance: The Awardee(s) shall maintain during the life of this Contract, Worker's Compensation Insurance in accordance with Florida Statute 440. Contractors shall require all subcontractors to maintain such insurance during the life of this Contract Employer's Liability Insurance: The Contractor shall maintain, Employer's Liability Insurance shall be in the amounts not less than Five Hundred Thousand Dollars (\$500,000.00) each accident for bodily injury by accident, Five Hundred Thousand Dollars (\$500,000.00) each employee for bodily injury by disease, and Five Hundred Thousand Dollars (\$500,000.00) policy limit for bodily injury by disease.

6.17.4 Automobile Liability Insurance: Automobile Liability Insurance shall be maintained, by Vendor as to ownership, maintenance, and use, including loading and unloading, of all owned, non-owned, leased or hired vehicles with limits of not less than One Million Dollars (\$1,000,000.00) combined single limit each accident for bodily injury & property damage liability.

6.17.5 Professional Liability and Cyber Liability including: Technology Errors and Omissions, Telecommunications Errors and Omission, or Multimedia Professional Liability whichever is applicable not less than One Million Dollars (\$1,000,000.00), and Network Security Liability, Privacy Liability, Crisis Management, Cyber Extortion, and Media Liability not less than One Million Dollars (\$1,000,000.00).

6.18 Legal Requirements: It shall be the responsibility of the Awardee(s) to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein which may apply. Lack of knowledge by the Awardee(s) will in no way be a cause for relief from responsibility. Awardee(s) doing business with the School are prohibited from discriminating against any employee, applicant, or client because of race, creed, color, national origin, sex or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.

6.19 After notification of award, the Awardee(s) shall indemnify and hold harmless FLVS as specified in Florida Statutes Section 725.06. Nothing in the award, resulting agreement, contract, or purchase order shall be deemed to affect the rights, privileges and immunities of FLVS as set forth in Florida Statutes.

6.19.1 Successful Bidder shall, in addition to any other obligation to indemnify Florida Virtual School and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;

6.19.1.1 Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or

6.19.1.2 Violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or Liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

6.19.1.3 The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

6.19.1.4 Any costs or expenses, including attorney's fees, incurred by Florida Virtual School to enforce this agreement shall be borne by the Contractor and venue shall be in Orange County.

- 6.20 Patents and Royalties. The Bidder, without exception shall indemnify and hold harmless the School and its employees from liability of any nature or kind including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by Florida Virtual School. If the Bidder uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work. In addition, FLVS shall maintain all rights to the written documentation, electronic media and other materials provided by the Contractor in response to this Response.
- 6.21 All information submitted in response to this request shall be submitted in compliance with Florida Statutes Chapter 119.07 Public Records and 812-081 Trade Secrets. All information submitted as "Trade Secret" shall be submitted in a separate envelope and so labeled. If challenged, the Bidder who submits the "Trade Secret" information shall bear all costs associated with defending their position.
- 6.22 Payment Terms and Conditions. Please state on the Response Price Sheet the Terms and Conditions you will accept for a payment discount. (i.e.: 2% net 45 days, upon receipt of invoice). FLVS shall pay to Provider the fees for services as per State Statute Net 45 days of receipt of approved invoice. The School shall not pay Federal Excise and State taxes on direct purchases of tangible personal property. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvement of School Board-owned real property as defined in Chapter 192 of the Florida Statutes. The tax exemption number is 85-8013320819C-8.
- 6.23 FLVS will monitor and enforce compliance by all Awardees and sub-contractors that provide services and/or products to FLVS.
- 6.23.1 It is the intent of FLVS that all Awardees and sub-contractors supplying services and/or products shall at no time cause unsafe conditions or acts that could have any impact on the safety and health of students, employees, or visitors to FLVS operations. The Awardee(s) may be required to supply a written copy of their Safety Program/Manual for review after contract award. Periodic review of the Awardee's safety manual and operations may be conducted. All Awardees and their employees, including sub-contractors, performing work under the terms of this contract will follow the best safe working practices at all times, as well as comply with all Federal, State, Local, and District safety policies and procedures. This includes the operation of vehicles and equipment on District owned property. Any accidents, injuries, or incidents occurring on District property shall be immediately reported to FLVS Facilities Office.
- 6.23.2 In compliance with Chapter 442, Florida Statutes, any item delivered or used when providing services under this contract must have a published Material Safety Data Sheet (MSDS). Each MSDS must be in English (Spanish may be required by FLVS) and include information regarding the specific chemical identity of the hazardous chemical(s) involved and the common names. Information must be provided on the physical and chemical characteristics of the hazardous chemical; known acute and chronic health effects and related health information; exposure limits; whether the chemical is considered to be a carcinogen by NTP, IARC or OSHA; emergency first aid procedures; and the identification of the organization responsible for preparing the MSDS.
- 6.23.3 The Awardee(s) performing work for FLVS is responsible to provide written notification and Material Safety Data Sheets (MSDS) to FLVS Facilities Office for any hazardous material that may be used. FLVS defines Hazardous Material as "any material or substance for which there is sufficient data to indicate a reasonable risk to physical and/or environmental health". These substances are classified as poisonous, toxic, corrosive and flammable, explosive, radioactive, or otherwise have any warning on the product label.
- 6.23.3.1 FLVS Facilities Office must approve all hazardous materials used by the Awardee(s) prior to use.
- 6.23.3.2 All requests for approval of product shall be directed to FLVS Facilities Office at 2145 Metrocenter Boulevard Suite 100, Orlando, FL 32835.
- 6.23.3.3 Current, legible copies of Material Safety Data Sheets (MSDS) will be used to evaluate all products. This information must be provided at least five (5) working days prior to use and must include the Awardee's safety plan (precautions needed by the Awardee's employees).
- 6.23.3.4 After review by FLVS Safety Office, the Awardee(s) of the MSDS will be provided a copy of the MSDS stamped approved, with or without additional restrictions, or disapproved.
- 6.23.3.5 The Awardee(s) using the product must follow any identified restrictions and must maintain a copy of the approved MSDS at the job location.

- 6.23.3.6 Any product used in FLVS shall be used in accordance with the manufacturer's instructions and applicable FLVS Policies.
 - 6.23.3.7 Certain products will not be authorized for use in FLVS in order to prevent any incidence of exposure to students or employees. Further, stringent restrictions may be applied to the use of certain products to reduce or eliminate the incidence of exposure.
 - 6.23.3.8 Products approved for use by FLVS employees does not constitute an automatic approval for use by Awardee(s). All products used by Awardees must be specifically approved for each job within FLVS.
 - 6.23.3.9 FLVS employees will not use products approved for use by Awardees unless a specific approved MSDS has been provided to the supervisor and/or is maintained in the worksite MSDS Book.
 - 6.23.3.10 Use of Hazardous Materials at sites where no students or FLVS employees are assigned does not have to be approved provided the materials are not within 250 feet of sites with students or employees. All Federal, State, and Local regulations shall apply.
 - 6.23.3.11 Awardees are responsible to remove all products used on projects immediately upon completion. Products left for FLVS use will be listed on a manifest indicating type of container, amount, and the location of the product. FLVS employee that originated the service or contract shall sign the manifest and send to FLVS Safety Office.
- 6.23.4 The Awardee(s) and their employees, including sub-contractors, performing work under the terms of this contract will follow the best environmental working practices at all times. The Awardee(s) shall not cause any unsafe conditions or acts that could have an impact on the safety and health of students, employees, or visitors to FLVS operations, as well as comply with all Federal, State, Local, and District environmental policies and procedures. The Awardee(s) may be required to supply a written copy of their Environmental Program/Manual for review after contract award. Periodic review of the Awardee's environmental manual and operations may be conducted. Awardees and sub-contractors will be responsible for removal and cleanup of all contamination (or potential contamination) when it occurs or is identified by FLVS Safety Office. All incidents shall be immediately reported to FLVS Safety Office.

7. SPECIAL PROVISIONS

- 7.1 **Contract Term/Option to Renew:** The initial term of the contract shall be for a two (2) year period following Board approval if required.
- 7.1.1 This contract may be renewed for three (3) additional one year periods provided all terms and conditions remain unchanged and in full force and effect. The option to renew, if exercised, will be executed in the form of a renewal letter, to be issued not sooner than one-hundred twenty days (120) prior to expiration of this contract, nor later than the final day of the contract period. This option to renew requires the mutual agreement of both parties. Refusal by either party to exercise this option to renew will require this contract to expire on the original or mutually agreed date.
- 7.1.2 It is understood and agreed that this contract may be renewed under the same terms, conditions, and specifications governing the original contract, and any request for a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.
- 7.1.3 Should it become necessary for FLVS to discontinue operation of any facility for any reason, that portion of this contract serving that facility shall become null and void.
- 7.2 **Contract Termination:** FLVS shall have the right at any and all times to terminate this agreement, with or without cause, upon written notice of such termination provided not less than ninety (90) days prior to the date that such termination is to be effective, or with such lesser notice as FLVS may deem appropriate under the circumstances. Such right to terminate this contract without cause is hereby reserved by and to FLVS. In the event FLVS shall elect to terminate this contract without cause, FLVS shall compensate the Bidder for all work and services provided or supplied prior to the date of termination. In the event that an advance notice of termination is given, the Awardee(s) agree to abide and perform all covenants and provisions of this contract until the date of the termination specified in the written notice of termination. The Awardee(s) shall have no further rights, and FLVS shall have no further obligation to the Awardee(s), subsequent to the date of termination of this contract as specified in the written notice.
- 7.3 **Minimum Qualifications/Experience:** The Awardee(s) shall maintain a current business license. The Awardee(s) shall keep current all licenses and permits, whether Municipal, County, State, or Federal, required for the performance of its obligations and functions, hereunder, and shall pay promptly when due all such fees. Awardee(s) shall provide documentation of applicable license, certification, and/or commercial experience involving the services described herein. FLVS reserves the right to request documentation at any time during the contract period.
- 7.3.1 Bidder(s) shall include a copy of all applicable licensing with their response.
- 7.3.2 Inspection of Bidder's Facilities: FLVS reserves the right to inspect the Bidder's facilities and vehicles prior to awarding this contract.
- 7.4 **References:** Please provide three (3) references (preferable educational governmental references) on the form provided in Appendix I. Include name of customer, address, contact name, telephone numbers (including facsimile number), and email address. Please include only references within the previous thirty-six (36) months. FLVS may contact these references during the evaluation process. **By submitting and signing the bid you are authorizing FLVS the authority to contact your references to check your company's previous performance.**
- 7.5 **FLVS Facility Security:** All personnel must coordinate with the facility's front office or security personnel. Awardee's employees must be properly identified and must sign in and sign out when working or making deliveries during operational hours. All personnel must remain in the assigned work area.
- 7.5.1 It shall be the sole responsibility of the Awardee(s) performing services for this contract to safeguard their own materials, tools, and equipment. FLVS shall not assume any responsibility for vandalism and/or theft of materials, tools, and/or equipment.
- 7.6 **Awardee(s) Personnel:** Awardee's staff members are to present a professional appearance. Personnel shall be neat, clean, well groomed, properly uniformed, and conduct themselves in a respectable and courteous manner while performing duties and while at any FLVS facility.
- 7.6.1 Qualifications of new people working under this contract will be submitted to FLVS, in writing, for approval prior to them conducting any service under this contract. Submit a list of all employees who will be working under the current contract, any intention for additional personnel, and back-up personnel for each function.
- 7.6.2 Effective September 1, 2005, as per Section 1012.465 of the Florida State Statutes all Florida education agencies and Contractual personnel must be in compliance with the Jessica Lunsford Act.

The term "contractor" means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for the school district or a school, but who is not otherwise considered an employee of the school district. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.

7.6.3 The Technical Assistance paper for the Jessica Lunsford Act can be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-3151/k12%2005-107a>.

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

7.7.1 The Awardee(s) certifies by submission of this ITB, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

7.8 **Communications:** Awardee(s) must provide a means to receive direct communications from FLVS. A copy of all written communication concerning contract discrepancies, issues, or concerns from FLVS and the Awardee(s) shall be forwarded to the Procurement/Purchasing Agent upon issuance.

7.9 **Contract Administration:** FLVS will periodically inspect work to assure that the requirements of this contract are being met. Should it be found that the requirements specified herein are not being satisfactorily maintained, the Awardee(s) shall be contacted and any discrepancies, inconsistencies, or items not meeting the specifications contained herein, are to be corrected immediately at no additional cost to FLVS. A second discrepancy notice shall serve as notification that any future discrepancies, inconsistencies, or items not meeting specifications contained herein, will result in termination of the Awardee's right to proceed further with this work. In such event, the Awardee(s) will be paid only for materials used. The Awardee(s) and their sureties may be liable to FLVS for any additional cost incurred by FLVS to complete the job. At this point, the Awardee(s) shall be considered in default and the contract subject to termination. Performance ratings may be considered during award of future contracts by FLVS.

7.9.1 Failure of the Awardee(s) to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract, at the discretion of FLVS.

7.9.2 FLVS reserves the right to terminate this contract, in whole or in part, should the need for the services cease to exist.

7.9.3 Awardee(s) shall be subject to periodic performance evaluations by FLVS personnel. Continued unsatisfactory ratings shall be cause to find the Awardee(s) in default of the contract.

7.9.4 Upon cancellation of any ensuing agreement, FLVS reserves the right to award the contract to the responsible Bidder(s) offering the next highest rated response to FLVS for the unexpired term of the canceled contract, or for a full year period, whichever is deemed to be in FLVS's best interest.

Appendix A

Vendor's Statement of Qualification

Please provide written responses to the following questions. If the answer to any of the questions is "Yes", Vendor shall describe fully the circumstances, reasons therefore, the current status, and ultimate disposition of each matter that is the subject of this inquiry.

1. Has Vendor been declared in default of any contract? Yes No
2. Has Vendor forfeited any payment of performance bond issued by a surety company on any contract? Yes No
3. Has an uncompleted contract been assigned by Vendor's surety company on any payment of performance bond issued to Vendor arising from its failure to fully discharge all contractual obligations thereunder? Yes No
4. Within the past three (3) years, has Vendor filed for reorganization, protection from creditors, or dissolution under the bankruptcy statutes? Yes No
5. Is Vendor now the subject of any litigation in which an adverse decision might result in a material change in the firm's financial position or future viability? Yes No
6. Is Vendor currently involved in any state of a fact-finding, negotiations, or resistance to a merger, friendly acquisition, or hostile take-over, either as a target or as a pursuer? Yes No
7. License Sanctions: List any regulatory or license agency sanctions. The Board may perform a background check on Bidder with all state and regulatory agencies. _____

8. Provide the following financial information:

\$ _____	Earnings before Interest & Taxes
\$ _____	Total Assets
\$ _____	Net Sales
\$ _____	Market Value of Equity (Common & Preferred Stock)
\$ _____	Total Liabilities
\$ _____	Current Assets
\$ _____	Current Liabilities
\$ _____	Retained Earnings

Authorized Representative's Signature

Company Name

Appendix B

Acknowledgement of Business Type

This form must be signed in the presence of a Notary Public or other officer authorized to administer oaths and submitted with the response on the specified due date and time. The undersigned Bidder certifies that this response package is submitted in accordance with the scope of services in its entirety and with full understanding of the conditions governing this response.

BUSINESS ADDRESS OF BIDDER:

Address _____

City, State, Zip Code _____

Telephone No. _____ Fax No. _____

SIGNATURE OF BIDDER

If an Individual: _____

Signature

doing business as _____

If a Partnership: _____

by: _____

Partner Signature

If a Corporation: _____

Corporate Name

(a _____ Corporation) In what State is the Corporation Incorporated? _____

If not incorporated under the laws of Florida, are you licensed to do business in Florida? Yes ____ No ____

by: _____

Signature

Title: _____

Attest: _____ (SEAL)

Corporate Secretary

NOTARY PUBLIC:

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by

_____ who is personally known to me or who has produced

_____ as identification and who did (did not) take an oath.

NOTARY PUBLIC SIGNATURE: _____

NOTARY NAME, PRINTED, TYPED OR STAMPED: _____

Commission Number: _____ My Commission Expires: _____

Appendix C

STATEMENT OF AFFIRMATION AND INTENT

TO: FLORIDA VIRTUAL SCHOOL, PROCUREMENT DIVISION

PROJECT: _____

DATE: _____

The undersigned, hereinafter called the Bidder, declares that the only persons, or parties interested in their Response are those named herein, that this Response is, in all respects, fair and without fraud that it is made without collusion with any other vendor or official of Florida Virtual School. Neither the Affiant nor the above named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in connection with the entity's submittal for the above project. This statement restricts the discussion of pricing data until the completion of negotiations and execution of the Agreement for this project.

The Bidder certifies that no Board Member, Director, or any Florida Virtual School Employee directly or indirectly owns assets or capital stock of the bidding entity, nor will directly or indirectly benefit by the profits or emoluments of this Response. (For purposes of this paragraph, indirect ownership or benefit does not include ownership or benefit by a spouse or minor child.)

The Bidder certifies that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the School. In the event that a conflict of interest is identified in the provision of services, the Bidder agrees to immediately notify FLVS in writing.

The Bidder further declares that he/she has carefully examined the scope of services, instructions, terms and conditions of this Invitation to Negotiate and that Bidder's Response is made according to the provisions of the ITB and that he/she will meet or exceed the scope of services, requirements, and standards contained in the Invitation to Negotiates.

The Bidder agrees to abide by all conditions of the negotiation process. In conducting negotiations with FLVS, Bidder offers and agrees that if this negotiation is accepted, the Bidder will convey, sell, assign, or transfer to FLVS all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by FLVS. At the School's discretion, such assignment shall be made and become effective at the time the School tenders final payment to the Bidder. The Response constitutes a firm and binding offer by the Bidder to perform the services as stated.

Bidder acknowledges that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119, F.S.

The signer of this Response guarantees, as evidence of the sworn affidavit required herein, the truth and accuracy of all statements and information hereinafter provided. The undersigned hereby authorizes any public official, surety company, bank depository, material, or equipment manufacturer or distributor or any person or firm or corporation to furnish any pertinent information requested by Florida Virtual School or their representative, deemed necessary to verify the information provided and statements made regarding the standing and general reputation of the applicant.

Signature of Authorized Firm Representative

Date

Name and Title of Authorized Firm Representative (Typed)

E-mail Address

Name of Firm (Typed)

Address, City, Zip

Telephone Number

Fax Number

Sworn to and subscribed before me this _____ day _____ of 2007.

Notary Public

Commission Expiration Date

Appendix D

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (this "*Agreement*") is made and entered into as of _____ by and between Florida Virtual School, a state of Florida entity, and _____ (referred to from this point as "*Company*"). Florida Virtual School (FLVS) and the Company agree as follows:

- Purpose.** The parties wish to explore a business opportunity of mutual interest and in connection with this opportunity, each party may disclose to the other certain confidential technical and business information that the disclosing party desires the receiving party to treat as confidential.
- "Confidential Information"** means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment), which is designated as "Confidential," "Proprietary" or some similar designation. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within a reasonable time after the initial disclosure. Confidential Information may also include information disclosed to a disclosing party by third parties. Confidential Information shall not, however, include any information which: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.
- Non-use and Non-disclosure.** Each party agrees not to use any Confidential Information of the other party for any purpose except to evaluate and engage in discussions concerning a potential business relationship between the parties. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees, except to those employees of the receiving party who are required to have the information in order to evaluate or engage in discussions concerning the contemplated business relationship. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.
- Maintenance of Confidentiality.** Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.
- No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.
- No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.
- Return of Materials.** All documents and other tangible objects containing or representing Confidential Information which have been disclosed by either party to the other party, and all copies thereof which are in the possession of the other party, shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon the disclosing party's written request.
- No License.** Nothing in this Agreement is intended to grant any rights to either party under any patent, mask work right or copyright of the other party, nor shall this Agreement grant any party any rights in or to the Confidential Information of the other party except as expressly set forth herein.
- Term.** The obligations of each receiving party hereunder shall survive until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party.
- Remedies.** Each party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.
- Solicitation of Employees.** Each Party (FLVS and Contractor) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own

behalf for as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity.

12. Miscellaneous. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one instrument. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall be governed by the laws of the State of Florida, without reference to conflict of laws principles. In any action arising out of or related to this Agreement, the parties hereto consent to the exclusive jurisdiction and venue in the courts located in the Orange County of Florida. This document contains the entire agreement between the parties with respect to the subject matter hereof, and neither party shall have any obligation, express or implied by law, with respect to trade secret or proprietary information of the other party except as set forth herein. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

Florida Virtual School

Signature:

Print Name:

Title:

Company

Signature:

Print Name:

Title:

Company/School/District:

Phone Number:

Email:

Appendix E

ADDENDA FORM

The signer of this response guarantees, as evidence by the sworn affidavit required herein, the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

The undersigned hereby authorizes any public official, engineer, architect, surety company, bank depository, material or equipment manufacturer or distributor or any person, firm or corporation to furnish any pertinent information requested by Florida Virtual School or their representative, deemed necessary to verify the statements made in this qualification form or regarding the standing and general reputation of the applicant. The signer also states that all information given is an accurate representation of the office location and resources from where the services are to be rendered.

Receipts of the following Addenda are hereby acknowledged: (List all Addenda as follows):

ADDENDUM NO _____ Dated _____

ADDENDUM NO _____ Dated _____

ADDENDUM NO _____ Dated _____

Date: _____

Name of Organization: _____

Name: _____

Title _____

Signature _____

DISPUTE RESOLUTION CLAUSE

In the event a dispute occurs, or a clarification of minor contract terms becomes necessary, please indicate your Bidder representative.

Representative's Name: _____

Telephone Number: _____

FLVS representative will be the Procurement Director.

Appendix F

FAIR LABOR STANDARDS ACT - "HOT GOODS"

The undersigned hereby certify that these goods are or will be produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.

The undersigned shall be required to stamp or print such certifications on the invoices which covers the resalable goods shipped, and which are furnished to the School District.

Company Official Signature: _____

Date: _____

PUBLIC ENTITY CRIMES

Per the provisions of Florida Statute 287.133 (2) (A), "A person or affiliate who has been placed on the convicted Vendor(s) list following a conviction for a public entity crime may not submit a response on a contract to provide any goods or services to a public entity, may not submit a response on a contract with a public entity for the construction or repair of a public building or public work, may not submit responses on leases of real property to a public entity, may not be awarded or perform work as a Vendor(s), supplier, sub-vendor(s) 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 Florida Statute 287.017 for category two for a period of 36 months from the date of being placed on the convicted Vendor(s) list."

Company Official Signature: _____

Date: _____

FEDERAL DEBARMENT CERTIFICATION

Certification regarding debarment, suspension, ineligibility and voluntary exclusion.

The prospective lower tier (\$25,000) participant certifies, by submission of this response, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this response.

Company Official Signature: _____

Date: _____

Appendix G

DRUG-FREE WORKPLACE CERTIFICATION

Tie response preference shall be given to businesses with drug-free workplace programs. Whenever two or more responses, which are equal with respect to price, quality and service, are received by the State or by any political subdivision for the procurement of commodities or contractual services, a response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie responses will be followed if none of the tied Awardee(s) have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace, and specifying the actions that will be taken against employees for violations of such prohibition.

Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

Give each employee engaged in providing the commodities or contractual services that are under response a copy of the statement specified in subsection (1).

In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under response, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States, or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.

Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

AS THE PERSON AUTHORIZED TO SIGN THE STATEMENT, I CERTIFY THAT THIS COMPANY COMPLIES FULLY WITH THE ABOVE DRUG-FREE WORKPLACE REQUIREMENTS.

Company Official Signature:

Date:

Appendix H

PUBLIC RECORDS ACT/CHAPTER 119 REQUIREMENTS

Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law including:

1. **Keeping and maintaining public records that ordinarily and necessarily would be required by the Board in order to perform the service.**
2. **Providing the public with access to public records on the same terms and conditions that the BOARD would provide the records and at the cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.**
3. **Ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and**
4. **Meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the Contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD.**

The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

Company Official Signature: _____

Date: _____

Appendix I References

I _____ being of _____

 (Name/Title) (Name of Company)

Hereby give Florida Virtual School authorization to check our company's previous performance.

Authorizing Signature _____

NOTE: All references shall be contacted via an online web form. If you wish to see a copy of the questions please contact the procurement personnel listed on page one (1) of this document.

REFERENCE 1.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	
REFERENCE 2.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	
REFERENCE 3.	
COMPANY NAME:	
COMPANY ADDRESS:	
CONTACT PERSON:	
PHONE NUMBER:	FACSIMILE NUMBER:
EMAIL:	

Appendix J

Bid Price Sheet*

Item	Description	Monthly Cost	Annual Cost
1.	Managed Bare Metal Servers X2, as specified		
2.	Managed Virtual Servers X2, as specified		
3.	Un-managed Virtual Server - 2GB RAM		
4.	Un-managed Virtual Server – 8GB RAM		
5.	CDN Bandwidth: CDN Pay as You Go Bandwidth		
6.	Performance Storage NFS: File Storage Performance Storage IOPS: 200 IOPS		
7.	Performance Storage NFS: File Storage Performance Storage IOPS: 2000 IOPS		
8.	Dedicated Firewall: Hardware Firewall		
9.	Archive Storage Repository: Image Template Storage		
10.	Proxy Load Balancer: Load Balancer 2,500 VIP Connections		
11.	Storage-Layer Additional Storage: 120GB allocated		
TOTAL ANNUAL PRICE		➔	

*Monthly price bid will be used to determine the correct extended price if calculation error is found.

FLVS Payment Term: Net 45 days as per §218.73. Bidders Additional Payment Discount (i.e. 2%/10 days) _____

Vendor Acknowledgment and Approval

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment, and in all respects fair and without collusion or fraud. The following information, including an authorized representative signature and witness, is required to be submitted with your proposal in order to be considered for evaluation and award. The person signing below acknowledges and agrees with all proposed information as submitted and has the authorization of the said company to enter into a contractual agreement with the School Board of Orange County for the purposes as proposed and as described herein. Please print below unless where a signature is required.

Firm Name _____

Phone # _____

Authorized Representative's Signature _____ **Date** _____

Authorized Representative Name/Title _____

Witness Signature _____ **Date** _____

FAILURE TO SUBMIT AT THE BID OPENING, THE SIGNED BID PRICE SHEET SHALL RESULT IN REJECTION OF YOUR BID SUBMITTAL.

Appendix K – **SAMPLE CONTRACT**

FLORIDA VIRTUAL SCHOOL

Standard Contract Form

Solicitation Title	Solicitation Number	Contract Number
--------------------	---------------------	-----------------

1. This Contract is entered into between FLVS and the Contractor named below:

Entity Name Florida Virtual School	(hereafter called FLVS)
--	-------------------------

Contractor's Name	(hereafter called Contractor)
-------------------	-------------------------------

2. Contract to Begin: _____ Date of Completion: _____ Renewals: _____

3. Performance Bond, if any: _____ Other Bonds, if any: _____

4. Maximum Amount of this Contract:	Total Financial Obligation of FLVS for the First Fiscal Year:	Total Financial Obligation of FLVS for each Renewal Period if Renewed:
-------------------------------------	---	--

5. Authorized Person to Receive Contract Notices for FLVS: _____ Authorized Person to Receive Contract Notices for Contractor: _____

6. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Contract:

Attachment 1 – FLVS Standard Contract Terms and Conditions for Services
Attachment 2 – Solicitation (referenced above)
Attachment 3 – Solicitation (referenced above) Addendum
Attachment 4 – Contractor's Final Response
Attachment 5: Contract Renewal Amendments (if any)

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

7. **Contractor**

Contractor's Name *(If other than an individual, state whether a corporation, partnership, etc.)*

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address

8. **FLVS**

FLVS Name

By <i>(Authorized Signature)</i>	Date Signed
----------------------------------	-------------

Printed Name and Title of Person Signing

Address

**FLORIDA VIRTUAL SCHOOL
STANDARD CONTRACT
Attachment 1
Contract Terms and Conditions for Services**

A. DEFINITIONS AND GENERAL INFORMATION

1. **Definitions.** The following words shall be defined as set forth below:
 - (i) **"FLVS"** means Florida Virtual School or the entity identified in the Standard Contract Form to contract with the Contractor for the Services identified in the Contract.
 - (ii) **"FLVS Standard Contract"** or **"Contract"** means the agreement between FLVS and the Contractor as defined by FLVS Standard Contract Form and its incorporated documents.
 - (iii) **"FLVS Standard Contract Form"** means the document that contains basic information about the Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFX, Contractor's Response to the RFX, the final pricing documentation for Services and any mutually agreed clarifications, modifications, additions and deletions resulting from final contract negotiations. No objection or amendment by a Contractor to the RFX requirements or the Contract shall be incorporated by reference into this Contract unless FLVS has accepted the Contractor's objection or amendment in writing. FLVS Standard Contract Form is defined separately and referred to separately throughout FLVS Standard Contract as a means of identifying the location of certain information. For example, the initial term of the Contract is defined by the dates in FLVS Standard Contract Form.
 - (iv) **"Contractor"** means the provider(s) of the Services under the Contract.
 - (v) **"Purchase Instrument"** means the documentation issued by FLVS to the Contractor for a purchase of Services in accordance with the terms and conditions of the Contract. The Purchase Instrument should reference the Contract and may include an identification of the Services to be purchased, the time and location such Services will be utilized, and any other requirements deemed necessary by FLVS.
 - (vi) **"Response"** means the Contractor's submitted response to the RFX, including any modifications or clarifications accepted by FLVS.
 - (vii) **"RFX"** means the Invitation to Negotiate, Request for Bid, or other solicitation document (and any amendments or addenda thereto) specifically identified in FLVS Standard Contract Form that was issued to solicit the Services that are subject to the Contract.
 - (viii) **"Services"** means the services and deliverables as provided in the RFX and as further described by the Response and the Contract.
 - (ix) **"State"** means the State of Florida, FLVS, and any other authorized state entities issuing Purchase Instruments against the Contract.
2. **Priority of Contract Provisions.** Any pre-printed contract terms and conditions included on Contractor's forms or invoices shall be null and void.
3. **Reporting Requirements.** Contractor shall provide all reports required by the RFX. In addition, unless otherwise provided in the RFX, Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a quarterly written report to FLVS.

B. DURATION OF CONTRACT

1. **Contract Term.** The Contract between FLVS and the Contractor shall begin and end on the dates specified in FLVS Standard Contract Form unless terminated earlier in accordance with the applicable terms and conditions. This Contract shall not be deemed to create a debt of FLVS for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The initial term of the contract shall be for a <<INSERT NUMBER OF YEARS (SPELLED OUT)>> <<INSERT NUMBER ONLY)>> year period following Board approval. The initial term of the contract shall be from <<INSERT BEGINNING DATE>> through <<INSERT END DATE>> and the anticipated award date is <<INSERT BOARD APPROVAL DATE>>.

2. **Contract Renewal.** FLVS shall have the option, in its sole discretion, to renew the Contract for additional terms as defined in FLVS Standard Contract Form on a year-to-year basis by giving the Contractor written notice of the renewal decision at least sixty (60) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the State, funding, and Contractor's performance. Renewal will be accomplished through the issuance of a Notice of Renewal Amendment. Upon FLVS election, in its sole discretion, to renew any part of this Contract, Contractor shall remain obligated to perform in strict accordance with this Contract unless otherwise agreed by FLVS and the Contractor.

This contract may be renewed for <<INSERT NUMBER OF YEARS (SPELLED OUT)>> <<INSERT NUMBER ONLY)>> year periods provided all terms and conditions remain unchanged and in full force and effect. This option to renew requires the mutual agreement of both parties. Refusal by either party to exercise this option to renew will require this contract to expire on the original or mutually agreed date.

3. **Contract Extension.** In the event that this Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the Services, FLVS may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the State a continuous supply of the Services.

C. DESCRIPTION OF SERVICES

1. **Specifications in Bidding Documents.** All Services shall be provided in accordance with the specifications contained in the RFX, the terms of the Contract, and as further described in Contractor's Response.
2. **Product Shipment and Delivery.** All products, if any, shall be shipped F.O.B. destination. Destination shall be the location(s) specified in the RFX or any provided Purchase Instrument. All items shall be at the Contractor's risk until they have been delivered and accepted by the receiving entity. All items shall be subject to inspection on delivery. Hidden damage will remain the responsibility of the Contractor to remedy without cost to FLVS, regardless of when the hidden damage is discovered.
3. **Non-Exclusive Rights.** The Contract is not exclusive. FLVS reserves the right to select other contractors to provide services similar to the Services described in the Contract during the term of the Contract.
4. **No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or use of Services.

D. COMPENSATION

1. **Pricing and Payment.** The Contractor will be paid for Services provided pursuant to the Contract in accordance with the RFX and final pricing documents as incorporated into FLVS Standard Contract Form and the terms of the Contract. Unless clearly stated otherwise in the Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties.

FLVS shall pay the amount set out in ATTACHMENT x for any goods and/or services purchased hereunder. Payments shall be made upon receipt of an approved invoice. FLVS payment term is Net 30 Days. Payments made to the Contractor may be paid by a Visa Purchasing Card.

2. **Billings.** If applicable, and unless the RFX provides otherwise, the Contractor shall submit, on a regular basis, an invoice for the Services supplied to FLVS under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. FLVS shall pay all approved invoices in arrears and in accordance with applicable provisions of State law. FLVS shall pay to Provider the fees for services as per State Statute Net 45 days of receipt of approved invoice.

Unless otherwise agreed in writing by FLVS and the Contractor, the Contractor shall not be entitled to receive any other payment or compensation from FLVS for Services provided by or on behalf of the Contractor under the

Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

3. **Delay of Payment Due to Contractor's Failure.** If FLVS in good faith determines that the Contractor has failed to perform or deliver Services as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such Service is performed or delivered. In this event, FLVS may withhold that portion of the Contractor's compensation which represents payment for Services that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes FLVS to incur costs, FLVS may deduct the amount of such incurred costs from any amounts payable to Contractor. FLVS authority to deduct such incurred costs shall not in any way affect FLVS authority to terminate the Contract.
4. **Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes FLVS and/or the State any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, FLVS and/or the State may set off the sum owed against any sum owed by FLVS to the Contractor in FLVS sole discretion.

E. TERMINATION

1. **Immediate Termination.** This Contract will terminate immediately and absolutely if FLVS determines that adequate funds are not appropriated or granted or funds are de-appropriated such that FLVS cannot fulfill its obligations under the Contract, which determination is at FLVS sole discretion and shall be conclusive. Further, FLVS may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - (ii) FLVS determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
 - (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
 - (iv) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.
2. **Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for FLVS to declare the Contractor in default of its obligations under the Contract:
 - (i) The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to FLVS satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
 - (ii) FLVS determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
 - (iii) The Contractor fails to make substantial and timely progress toward performance of the Contract;
 - (iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or FLVS reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - (v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
 - (vi) The Contractor has engaged in conduct that has or may expose FLVS or the State to liability, as determined in FLVS sole discretion; or
 - (vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of FLVS, the State, or a third party.

3. **Notice of Default.** If there is a default event caused by the Contractor, FLVS shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in FLVS written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, FLVS may:
 - (i) Immediately terminate the Contract without additional written notice; and/or
 - (ii) Procure substitute services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
 - (iii) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
4. **Termination Upon Notice.** Following thirty (30) days' written notice, FLVS may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for Services provided under the Contract to FLVS up to and including the date of termination.
5. **Termination Due to Change in Law.** FLVS shall have the right to terminate this Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:
 - (i) FLVS authorization to operate is withdrawn or there is a material alteration in the programs administered by FLVS; and/or
 - (ii) FLVS duties are substantially modified.
6. **Payment Limitation in Event of Termination.** In the event of termination of the Contract for any reason by FLVS, FLVS shall pay only those amounts, if any, due and owing to the Contractor for the Services actually rendered up to the date specified in the notice of termination for which FLVS is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to FLVS under the Contract in the event of termination. The State shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.
7. **The Contractor's Termination Duties.** Upon receipt of notice of termination or upon request of FLVS, the Contractor shall:
 - (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters FLVS may require;
 - (ii) Immediately cease using and return to FLVS, any personal property or materials, whether tangible or intangible, provided by FLVS to the Contractor;
 - (iii) Comply with FLVS instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
 - (iv) Cooperate in good faith with FLVS and its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor(s); and
 - (v) Immediately return to FLVS any payments made by FLVS for Services that were not delivered or rendered by the Contractor.

F. CONFIDENTIAL INFORMATION

1. **Access to Confidential Data.** The Contractor's employees, agents and subcontractors may have access to confidential data maintained by FLVS to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the State. If it is reasonably likely the Contractor will have access to the State's confidential information, then:

- (i) The Contractor shall provide to the State a written description of the Contractor's policies and procedures to safeguard confidential information;
- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract.

The private or confidential data shall remain the property of FLVS at all times. Some Services performed for FLVS may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

- 2. **No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of FLVS, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of FLVS. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of FLVS.
- 3. **Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify FLVS and cooperate with FLVS in any lawful effort to protect the confidential information.
- 4. **Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to FLVS any unauthorized disclosure of confidential information.
- 5. **Survives Termination.** The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

G. INDEMNIFICATION

- 1. **Contractor's Indemnification Obligation.** To the maximum extent of the law, the Contractor agrees to indemnify and hold harmless FLVS and State officers, employees, agents, and volunteers (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:
 - (i) Any breach of the Contract;
 - (ii) Any negligent, intentional or wrongful act or omission of the Contractor or any employee, agent or subcontractor utilized or employed by the Contractor;
 - (iii) Any failure of Services to comply with applicable specifications, warranties, and certifications under the Contract;
 - (iv) The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the Services provided under the Contract;
 - (v) Claims, demands, or lawsuits that, with respect to the goods (if any) or any parts thereof, allege product liability, strict product liability, or any variation thereof;
 - (vi) The Contractor's performance or attempted performance of the Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;
 - (vii) Any failure by the Contractor to comply with the "Compliance with the Law" provision of the Contract;

- (viii) Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Florida or the United States;
 - (ix) Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
 - (x) Any failure by the Contractor to adhere to the confidentiality provisions of the Contract.
2. **Duty to Reimburse State Tort Claims Fund.** To the extent such damage or loss as covered by this indemnification is covered by the State of Florida Tort Claims Fund ("the Fund"), the Contractor (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of the State and the terms of the Fund, the Contractor and its insurers waive any right of subrogation against the State, the Indemnified Parties, and the Fund and insurers participating thereunder, to the full extent of this indemnification.
 3. **Litigation and Settlements.** The Contractor shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnified Parties. No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Contractor unless approved in writing by Contractor. No settlement or compromise of any claim, loss or damage entered into by Contractor shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties.
 4. **Patent/Copyright Infringement Indemnification.** Contractor shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit instituted against FLVS and indemnify FLVS against any award of damages and costs made against FLVS by a final judgment of a court of last resort in such suit insofar as the same is based on any claim that any of the Services constitutes an infringement of any United States Letters Patent or copyright, provided FLVS gives the Contractor immediate notice in writing of the institution of such suit, permits Contractor to fully participate in the defense of the same, and gives Contractor all available information, assistance and authority to enable Contractor to do so. Subject to approval of the Attorney General of the State of Florida, FLVS shall tender defense of any such action to Contractor upon request by Contractor. Contractor shall not be liable for any award of judgment against FLVS reached by compromise or settlement unless Contractor accepts the compromise or settlement. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement shall be binding upon FLVS unless approved by FLVS.

In case any of the Services is in any suit held to constitute infringement and its use is enjoined, Contractor shall, at its option and expense:

- (i) Procure for FLVS the right to continue using the Services;
- (ii) Replace or modify the same so that it becomes non-infringing; or
- (iii) Remove the same and cancel any future charges pertaining thereto.

Contractor, however, shall have no liability to FLVS if any such patent or copyright infringement or claim thereof is based upon or arises out of:

- (i) Compliance with designs, plans or specifications furnished by or on behalf of FLVS as to the Services;
- (ii) Use of the Services in combination with apparatus or devices not supplied by Contractor;
- (iii) Use of the Services in a manner for which the same was neither designed nor contemplated; or
- (iv) The claimed infringement of any patent or copyright in which FLVS or any affiliate or subsidiary of FLVS has any direct interest by license or otherwise.

5. **Survives Termination.** The indemnification obligation of the Contractor shall survive termination of the Contract.

H. INSURANCE

Contractor shall provide all insurance as required by the RFX.

I. BONDS

The Contractor shall provide all required bonds in accordance with the terms of the RFX and as stated in FLVS Standard Contract Form.

J. WARRANTIES

1. **Construction of Warranties Expressed in the Contract with Warranties Implied by Law.** All warranties made by the Contractor and/or subcontractors in all provisions of the Contract and the Contractor's Response, whether or not the Contract specifically denominates the Contractor's and/or subcontractors' promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the Services to be provided, or by provision of samples to FLVS shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitBess for a particular purpose. The warranties expressed in the Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Services provided by the Contractor. The provisions of this section apply during the term of the Contract and any extensions or renewals thereof.
2. **Warranty – Nonconforming Services and Goods.** All Services and any goods delivered by Contractor to FLVS shall be free from any defects in design, material, or workmanship. If any Services or goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, FLVS shall have the option of returning, repairing, or replacing the defective Services or goods at Contractor's expense. Payment for Services and any goods shall not constitute acceptance. Acceptance by FLVS shall not relieve the Contractor of its warranty or any other obligation under the Contract.
3. **Compliance with Federal Safety Acts.** Contractor warrants and guarantees to FLVS that the Services provided under the Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.
4. **Originality and Title to Concepts, Materials, and Goods Produced.** Contractor represents and warrants that all the concepts, materials, goods and Services produced, or provided to FLVS pursuant to the terms of the Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Contractor represents and warrants that the concepts, materials, goods and Services and FLVS's use of same and the exercise by FLVS of the rights granted by the Contract shall not infringe upon any other work, other than material provided by the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods and Services contemplated by the Contract.
5. **Conformity with Contractual Requirements.** The Contractor represents and warrants that the Services provided in accordance with the Contract will appear and operate in conformance with the terms and conditions of the Contract.
6. **Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into the Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to FLVS.
7. **Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that FLVS will not have any obligations with respect thereto.
8. **Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to FLVS is good and that transfer of title or license to FLVS is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Title to any supplies, materials, or equipment shall remain in the Contractor until fully paid for by FLVS. Except as otherwise expressly authorized by FLVS, all materials produced by Contractor personnel in performance of Services, including but not limited to software, charts, graphs, diagrams, video tapes and other project documentation shall be deemed to be work made for hire and shall be the property of the State of Florida.

9. **Industry Standards.** The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.
10. **Contractor's Personnel and Staffing.** Contractor warrants that all persons assigned to perform Services under this Contract are either lawful employees of Contractor or lawful employees of a subcontractor authorized by FLVS as specified in the RFX. All persons assigned to perform Services under this Contract shall be qualified to perform such Services. Personnel assigned by Contractor shall have all professional licenses required to perform the Services.
11. **State Security.** FLVS requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide Services to FLVS. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Contract if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by FLVS. The Contractor's employees, agents and subcontractors may be granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations to the extent necessary to carry out the Contractor's responsibilities under the Contract. Such access may be terminated at the sole discretion of FLVS. The Contractor shall provide immediate notice to FLVS of any employees, agents and/or subcontractors suspected of abusing or misusing such access privilege. The Contractor represents and warrants that Contractor shall provide notice to FLVS of the changed status of any employee, agent or subcontractor granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations, including, but not limited to, termination or change of the position or contract relationship.
12. **Use of State Vehicles.** Contractor warrants that no State vehicles will be used by Contractor for the performance of Services under this Contract. Contractor shall be responsible for providing transportation necessary to perform all Services.

K. PRODUCT RECALL

If this Contract includes the provision of goods and in the event that any of the goods are found by the Contractor, FLVS, any governmental Agency, or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to FLVS and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude FLVS from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and FLVS shall agree to the performance of such repairs by FLVS upon mutually acceptable terms.

L. CONTRACT ADMINISTRATION

1. **Order of Preference.** In the case of any inconsistency or conflict among the specific provisions of FLVS Standard Contract Terms and Conditions (including any amendments accepted by both FLVS and the Contractor attached hereto), the RFX (including any subsequent addenda), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:
 - (i) First, by giving preference to the specific provisions of FLVS Standard Contract Terms and Conditions.
 - (ii) Second, by giving preference to the specific provisions of the RFX.
 - (iii) Third, by giving preference to the specific provisions of the Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by FLVS in writing shall not be included in this Contract and shall be given no weight or consideration.
2. **Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as stated in the RFX and the Contractor's Response. The failure of the parties to make reference to the terms of the RFX or the Contractor's Response in this document shall not be construed as creating a conflict and will not relieve the Contractor of the contractual

obligations imposed by the terms of the RFX and the Contractor's Response. The contractual obligations of FLVS cannot be implied from the Contractor's Response.

3. **Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Contract. Contractor and Contractor's personnel shall also comply with all State and FLVS policies and standards in effect during the performance of the Contract, including but not limited to FLVS's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. Section 45-10-20 et seq. have not and must not be violated under the terms of this Contract.
4. **Drug-free Workplace.** The Contractor hereby certifies as follows:
 - (i) Contractor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Contract; and
 - (ii) If Contractor has more than one employee, including Contractor, Contractor shall provide for such employee(s) a drug-free workplace, in accordance with the Florida Drug-free Workplace Act, throughout the duration of this Contract; and
 - (iii) Contractor will secure from any subcontractor hired to work on any job assigned under this Contract the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3."

Contractor may be suspended, terminated, or debarred if it is determined that:

- (i) Contractor has made false certification here in above; or
 - (ii) Contractor has violated such certification by failure to carry out the requirements of O.C.G.A. Section 50-24-3(b).
5. **Amendments.** The Contract may be amended in writing from time to time by mutual consent of the parties. If the contract award exceeds the delegated purchasing authority of FLVS, then FLVS must obtain approval of the amendment from the Department of Administrative Services (DOAS). All amendments to the Contract must be in writing and fully executed by duly authorized representatives of FLVS and the Contractor.
 6. **Third Party Beneficiaries.** There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit FLVS, and the Contractor.
 7. **Choice of Law and Forum.** The laws of the State of Florida shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Orange County, Florida. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to FLVS.
 8. **Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation.** In addition to any dispute resolution procedures otherwise required under this Contract or any informal negotiations which may occur between FLVS and the Contractor, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen (14) calendar days written notice to FLVS of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either FLVS or the Contractor may elect to submit the matter for mediation. Either FLVS or the Contractor may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Orlando, Florida; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith.

All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Inadmissibility notwithstanding, all written documents shall nevertheless be subject to the Florida Public Records Act, Chapter 119, F.S.

No party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, forty-five (45) calendar days after the date of filing the written request for mediation with the mediator or mediation service, or sixty (60) calendar days after the delivery of the written demand for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

9. **Assignment and Delegation.** The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of FLVS. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.
10. **Use of Third Parties.** Except as may be expressly agreed to in writing by FLVS, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than Contractor or Contractor's personnel to perform any of Contractor's obligations under this Contract or any of the work subsequently assigned under this Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of FLVS. FLVS shall have the right to request the removal of a subcontractor from the Contract for good cause.
11. **Integration.** The Contract represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.
12. **Headings or Captions.** The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
13. **Not a Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for the Services and acting toward the mutual benefits expected to be derived herefrom. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of FLVS. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.
14. **Joint and Several Liabilities.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Contract, and for any default of activities and obligations.
15. **Supersedes Former Contracts or Agreements.** Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between FLVS and the Contractor for the Services provided in connection with the Contract.
16. **Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of FLVS and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
17. **Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person

who signed the Contract on behalf of the party at the address identified in FLVS Standard Contract Form. Each such notice shall be deemed to have been provided:

- (i) At the time it is actually received; or,
- (ii) Within one (1) day in the case of overnight hand delivery, courier or Services such as Federal Express with guaranteed next day delivery; or,
- (iii) Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

- 18. Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in the Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.
- 19. Severability.** If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of FLVS and the Contractor to amend, modify, eliminate, or otherwise change any part of this Contract shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect.
- 20. Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Contract. Contractor shall ensure that all personnel providing Services to FLVS are responsive to FLVS's requirements and requests in all respects.
- 21. Authorization.** The persons signing this Contract represent and warrant to the other parties that:
- (i) It has the right, power and authority to enter into and perform its obligations under the Contract; and
 - (ii) It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 22. Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 23. Record Retention and Access.** The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to FLVS throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Florida or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such records may be located during normal business hours. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, FLVS reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor agrees to and hereby does assign to FLVS all copyright rights and all other intellectual property rights in all works now existing or later created for FLVS under this Agreement (the "Works") as such rights are defined in any jurisdiction throughout the world. Contractor agrees to execute all documents that may be necessary to confirm FLVS' ownership of the Works, acknowledges that FLVS may use the Works in whatever way and for whatever

purpose it chooses, in its sole discretion, and represents and warrants that any third parties who are permitted to contribute to the Works under this Agreement are bound by all of the obligations of this paragraph.

- 24. Public Entity Crimes.** A person or affiliate who has been placed on the conflicted vendor list following a conviction for a public entity crime may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded to 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 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The Contractor certifies by submission of this ITB, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction any Federal department or agency.
- 25. Solicitation.** The Contractor warrants that no person or selling FLVS (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.
- 26. Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that FLVS is immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.
- 27. Jessica Lunsford Act.** Effective September 1, 2005, In order to be in compliance with the Jessica Lunsford Act, Awardees meeting any of the three criteria listed below will be required to be Level II fingerprinted and screened by our Human Resources Department. This consists of a FDLE/FBI criminal record and fingerprint search. Contractor shall assign no person to perform work hereunder who has any criminal record (except minor traffic violations) without prior written authorization of FLVS. The Technical Assistance paper for the Jessica Lunsford Act can be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-3251/k12%2005-107a>
- 28. Public Records.** Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The contractor shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the BOARD in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the Board would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the vendor upon termination of the contract and shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD. The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.
- 29. Clean Air and Water Certification.** Contractor certifies that none of the facilities it uses to provide the Services are on the Environmental Protection FLVS (EPA) List of Violating Facilities. Contractor will immediately notify FLVS of the receipt of any communication indicating that any of Contractor's facilities are under consideration to be listed on the EPA List of Violating Facilities.
- 30. Debarred, Suspended, and Ineligible Status.** Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any Agency of the State of Florida or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify FLVS if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.
- 31. Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, State trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of FLVS.
- 32. Taxes.** FLVS is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. FLVS is exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Contractor or an authorized subcontractor has provided FLVS with a sworn verification regarding the filing of unemployment taxes or persons assigned by

Contractor to perform Services, which verification is incorporated herein by reference.

33. **Certification Regarding Sales and Use Tax.** By executing the Contract, the Contractor certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Florida law. The Contractor also acknowledges that FLVS may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in FLVS or its representative filing for damages for breach of contract.
34. **Delay or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is delayed or made impossible by an act of God. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract.
35. **Limitation of Contractor's Liability to FLVS.** Except as otherwise provided in this Contract, Contractor's liability to FLVS for any claim of damages arising out of this Contract shall be limited to direct damages and shall not exceed the total amount paid to Contractor for the performance under this Contract.

No limitation of Contractor's liability shall apply to Contractor's liability for loss or damage to State equipment or other property while such equipment or other property is in the sole care, custody, and control of Contractor's personnel. Contractor hereby expressly agrees to assume all risk of loss or damage to any such State equipment or other property in the care, custody, and control of Contractor's personnel. Contractor further agrees that equipment transported by Contractor personnel in a vehicle belonging to Contractor (including any vehicle rented or leased by Contractor or Contractor's personnel) shall be deemed to be in the sole care, custody, and control of Contractor's personnel while being transported. Nothing in this section shall limit or affect Contractor's liability arising from claims brought by any third party.

36. **Obligations Beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract. All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.
37. **Counterparts.** FLVS and the Contractor agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.
38. **Further Assurances and Corrective Instruments.** FLVS and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract.
39. **Transition Cooperation and Cooperation with other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to FLVS or another contractor. The Contractor shall provide full disclosure to FLVS and the third-party contractor about the equipment, software, or services required to perform the Services for FLVS. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the Services to FLVS or to another contractor.

Further, in the event that FLVS has entered into or enters into agreements with other contractors for additional work related to Services rendered under the Contract, Contractor agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.

40. **Solicitation of Employees.** Each Party (FLVS and Contractor) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own behalf or as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity.

**ATTACHMENT 2
FLVS STANDARD CONTRACT**

Solicitation

[\[Attach RFX\]](#)

**ATTACHMENT 4
FLVS STANDARD CONTRACT**

Contractor's Response

[\[Attach Contractor's Response to the RFX\]](#)