



**Department of
Development**

INVITATION TO BID (ITB)

The Original Signed Bid must be submitted to the Budget and Finance Office to receive consideration for award.

BIDDER NAME

BID NUMBER
DEVESB001

OPENING DATE (1:00p.m.)
October 29, 2009

STREET ADDRESS

Ohio Department of Development
Budget and Finance Office
77 S. High Street, 27th Floor
Columbus, OH 43215
Attn: Michael Ashford, Agency Procurement Officer

CITY STATE ZIP

COUNTY

MBE/EDGE CERTIFICATE NUMBER

TELEPHONE NO.
()

TOLL FREE NO.
1-()

CONTACT PERSON

FAX NO.
()

ISSUE DATE
October 15, 2009

CONTRACTOR'S E-MAIL ADDRESS

SELECT YOUR PREFERRED METHOD OF RECEIVING PURCHASE ORDERS AND ENTER THE E-MAIL OR FAX NUMBER INFORMATION (ONLY SELECT ONE METHOD)

E-mail

Fax

MBE SET-ASIDE OPPORTUNITY

THIS IS A SET-ASIDE ITB FOR BIDDING BY MINORITY BUSINESS ENTERPRISES CERTIFIED BY THE STATE'S EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR IN ACCORDANCE WITH RULES ADOPTED UNDER DIVISION (B)(1) OF SECTION 123.151 OF THE OHIO REVISED CODE. ONLY BIDS SUBMITTED BY CERTIFIED MBE VENDORS WILL BE CONSIDERED FOR AWARD.

The Ohio Department of Development, Entrepreneurship and Small Business Division, is soliciting bids for:

Technical Support for videos, DVD's, webinars, and CD production for Marketing Activities pertaining to the Entrepreneurship and Small Business Division.
(SEE SPECIFICATIONS FOR DETAILED REQUIREMENTS)

The following documents apply to this bid, all of which become the contract upon award:

- Required Certification for Bidding (Page 2) – Must complete & return with response to receive domestic and Ohio preference.
- General Instructions
- Specifications
- Standard Terms and Conditions – Bidder accepts terms and conditions by completing and signing page 1 of this bid document.

Any questions or clarifications regarding this ITB should be submitted through the State Procurement website at www.ohio.gov/procure following the procedures outlined in the "General Instructions" section of the ITB.

The original signed bid must be submitted to the Agency Procurement Officer by 1:00 p.m. on the above listed opening date to receive consideration for award. It is requested that the Bidder sign their bid in blue ink. Bidder certifies, by signature affixed to its bid, that the information provided by it in its bid, including the Required Certification for Bidding, is accurate and complete. Bidder declares to have read and understood all of the instructions, terms, conditions and specifications of this ITB and agrees to fulfill the requirements of any awarded contract at the prices bid.

PRINTED/TYPED SIGNATURE

AUTHORIZED SIGNATURE (ORIGINAL SIGNATURE ONLY)

DATE

REQUIRED CERTIFICATION FOR BIDDING

Those bidders claiming preference for Domestic Source End Products and/or the Ohio preference, pursuant to Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06 must complete the following information. Bidders who qualify as an "Ohio" bidder (offer an Ohio product or who have significant Ohio economic presence) or who qualify as a Border State bidder are eligible to receive a five percent (5%) preference over non-Ohio/Border state bidders. The state reserves the right to clarify any information during the evaluation process. **BIDDERS MUST COMPLETE THIS CERTIFICATION TO RECEIVE THE PREFERENCE.**

A. DOMESTIC PREFERENCE (BUY AMERICA): [Not applicable to "Excepted Products"]

1. Where is each product/services being offered mined, raised, grown, produced or manufactured?
 United States: _____(State) Canada Mexico (Go to B-1)
 Other: (Specify Country) _____ (Go to A-2)
2. End product is manufactured outside the United States and at least 50% of the cost of its components are produced, mined, raised, grown or manufactured within the United States. The cost of components may include transportation costs to the place of manufacture and, in the case of components of foreign origin, duty whether or not a duty free entry certificate is issued.
 Yes (Go to Section B-1) No (Go to Section A-3)
3. The Bidder hereby certifies that each end product, except the products listed below, is a domestic source end product as defined in the Buy America Act and that components of unknown origin have been considered to have been mined, produced, grown or manufactured outside the United States.

_____ (Item) _____ (Country of Origin)
_____ (Item) _____ (Country of Origin)

A domestic end source product is deemed to be excessively priced if it exceeds the cost of the foreign product by more than 6%. Pursuant to FAR, Part 25, the state of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The contractor, their subcontractor(s) and any agent of the contractor or subcontractor must not acquire any supplies or services originating from sources within, or that were located in or transported from or through Cuba, Iran, Iraq, Libya, North Korea, Sudan Territory of Afghanistan controlled by the Taliban, or Serbia (excluding the territory of Kosovo).

B. OHIO PREFERENCE (BUY OHIO):



1. The products/services being offered are raised, grown, produced, mined or manufactured in Ohio.
 Yes (Go to C) No (Go to B-2)
2. Bidder has significant economic presence within the state of Ohio. Yes (Answer a, b, c, d below) No (Go to B-3)
 - a) Bidder has paid the required taxes due the state of Ohio Yes No
 - b) Bidder is registered with the Ohio Secretary of State
 Yes (Charter/Registration No.: _____) No
Questions regarding registration should be directed to (614) 466-3910 or visit their web site at:
<http://www.sos.state.oh.us/>
 - c) Bidder has ten or more employees based in Ohio or border state. Yes No (Go to B-2d)
 - d) Bidder has seventy-five percent or more employees based in Ohio or border state. Yes No (Go to B-3)
3. Border state bidder:
 Yes (Specify which state then go to B-2c): KY MI NY PA IN No (Go to B-4)
4. Border state bidder: mined products mined in respective border state Yes No Not Applicable

C. E.D.G.E. DESIGNATION

Bidder is certified E.D.G.E. business Yes No

For information on E.D.G.E. designation, please visit the DAS Equal Opportunity Division website at:
<http://das.ohio.gov/Eod/Edge/Index.htm>

D. DECLARATION REGARDING MATERIAL ASSISTANCE/NON-ASSISTANCE TO A TERRORIST ORGANIZATION (DMA)

The Bidder being awarded this Contract must:

1. review the Terrorist Exclusion List at http://www.publicsafety.ohio.gov/links/terrorist_exclusion_list.pdf
2. complete the Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization (DMA) form <http://www.publicsafety.ohio.gov/links/HLS0038.pdf> and submit this with your bid response.

Failure to complete the Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization (DMA) form may result in the bidder being deemed not responsive and/or may invalidate any Contract award. If not submitted with the bid response, the bidder will have seven (7) calendar days, after notification, to submit the form.

GENERAL INSTRUCTIONS

The following sections provide a calendar of events, details on how to respond to this ITB and how to get more information about this ITB. All responses must be complete and in the prescribed format.

Calendar of Events

The schedule for this ITB is given below and is subject to change. Development may change this schedule at any time. If Development changes the schedule before the opening date, it will do so through an announcement on the State Procurement web site area for this ITB. The web site announcement will be followed by an addendum to this ITB, which will also be made available through the State Procurement web site. It is each prospective bidder's responsibility to check the web site question and answer area for this ITB for current information regarding this ITB and its calendar of events through award of the ITB. No contact shall be made with Development until award is announced.

Firm Dates

ITB Issued:	October 15, 2009
Inquiry Period Begins:	October 15, 2009
Inquiry Period Ends:	October 27, 2009 at 8:00 a.m.
Bid Opening Date:	October 29, 2009 at 1:00 p.m.

Estimated Dates

Issuance of Purchase Order: November 1, 2009

Bid Submittal

Bidders are advised there will be no opportunity to correct mistakes or deficiencies in their bids after the opening date. Bids that are missing required information may not be evaluated, and it is at the discretion of Development to make that determination.

It is the Bidders responsibility to ensure timely submission of a complete bid package. Development is under no obligation to consider a bid which is received after the deadline or that is incomplete. Bids that are not submitted in the format requested will not be evaluated. Late bids will not be evaluated.

No supplementary or revised materials will be accepted after the opening date unless specifically requested by Development.

All costs incurred in the preparation of the bid shall be borne by the bidder alone, and Development shall not contribute, in any way, to the cost of the preparation of the bid.

Any and all documents developed by the selected vendor(s) during the course of this project will be provided to Development upon request and will become the property of Development, and the selected vendor(s) shall not assert any claims arising under copyright or otherwise inconsistent with the transfer of ownership of such documents.

All information submitted in response to this bid shall be public information unless a statutory exception exists which would protect the information from release to the public. Any information submitted with the bid which the bidder treats as a trade secret, as that term is defined in Section 1333.61 of the Ohio Revised Code, may be designated as such by marking the information: two asterisks (**) must be placed at the beginning and end of the trade secret information and the trade secret information shall be underlined. Information determined to be a trade secret under the laws of the State of Ohio will be protected as trade secrets by Development in accordance with Ohio law.

Development reserves the right to:

- Accept or reject any and all bids if the State of Ohio determines that it is in its best interest to do so; and rebid the ITB requesting new bids from qualified parties.
- Waive or modify minor irregularities in bids received;
- Fund any bid in full or in part.
- Not make an award at the end of the evaluation process.
- Adjust the dates for whatever reason it deems appropriate.

In accordance with federal and state statutes and Development policy, no person shall be excluded from participation or subject to discrimination in the bid process on the basis of race, color, age, sex, national origin, military status, religion, or disability.

Inquiries

Prospective bidders may make inquiries or seek clarifications regarding this ITB any time during the inquiry period listed in the ITB Calendar of Events. To make an inquiry, prospective bidders must use the following process:

1. Access the State Procurement web site at <http://www.ohio.gov/procure>;
2. From the Navigation Bar on the left, select "Find it Fast";
3. Select "Doc/Bid/Schedule #" as the Type;
4. Enter the Bid Number found on Page 1 of this document;
5. Click the "Find It Fast" button;
6. On the document information page, click the "Submit Inquiry" button;
7. On the document inquiry page, complete the required "Personal Information" section by providing:
 - a. First and last name of the prospective bidder's representative who is responsible for the inquiry;
 - b. Name of the prospective bidder;
 - c. Representative's business phone number; and
 - d. Representative's e-mail address.
8. Type the inquiry in the space provided. including:

- a. A reference to the relevant part of this ITB;
 - b. The heading for the provision under question; and
 - c. The page number of the ITB where the provision can be found.
9. Click the "Submit" button.

Prospective bidders submitting inquiries will receive an immediate acknowledgement by e-mail that their inquiry has been received. **The prospective bidder who submitted the inquiry will not receive an e-mail response to the question, but will need to view the response on the State Procurement web site where it will be posted for viewing by all prospective bidders.**

Prospective bidders may view inquiries using the following process:

1. Access the State Procurement web site at <http://www.ohio.gov/procure>;
2. From the Navigation Bar on the left, select "Find it Fast";
3. Select "Doc/Bid/Schedule #" as the Type;
4. Enter the Bid Number found on Page 1 of this document;
5. Click the "Find It Fast" button;
6. On the document information page, click the "View Q & A" button to display all inquiries with responses submitted to date.

The State will try to respond to all inquiries within 48 hours, excluding weekends and State holidays. The State will not respond to any inquiries received after 8:00 a.m. on the Inquiry Period End Date. Prospective bidders who attempt to seek information or clarifications verbally will be directed to reproduce their questions to writing in accordance with state purchasing policy. No other form of communication is acceptable, and use of any other form of communication or any attempt to communicate with Development staff or any other agency of the State to discuss this ITB may result in the bidder being deemed not responsive.

SPECIFICATIONS

- I. **Scope:** Contractor shall provide and manage all technical support for videos, DVD's, webinars, and CD production for marketing activities pertaining to the Entrepreneurship and Small Business Division (ESB) and the Small Business Development Center (SBDC) network throughout Ohio.
- II. **Requirements:** The following is a detailed list of requirements and deliverables that must be met by the successful bidder.
 - A. Produce CDs and DVDs of all ESB and SBDC training materials
 - B. Video production of all events and training programs
 - C. Work with internal and external communications to coordinate media-related events
 - D. Assist with the creation and presentation of the SBDC webinars; and

- E. Provide technical assistance and video-streaming with online training courses (training to support SBDC, eVantage, Portability Grant, Workforce Development and Special Markets).
- F. Outline-timetable of activities; benchmark hours for process and turnaround of production; provide cost per hour for requested services

Services	Cost per hour
Standard Compensation w/o equipment (pre-production and consultation services)	
Onsite videography	
Onsite videography outside Franklin county (includes travel)	
Editing	
DVD Duplication w/label and slim case	
CD Duplication w/label and slim case	

- G. Bidder must demonstrate experience specific to video production services of live training sessions and other marketing events. Bidder must possess a minimum of 10 years experience in the video and marketing production field.
 - H. Bidder will agree to provide, prior to acceptance and payment of goods/services under this agreement, a sample of prior completed production of their work
 - I. Bidder shall assign all copy rights of completed work to the Ohio Department of Development
 - J. Unit cost set up, shipping, handling and deliveries to 77 South High Street, 28th Floor, Columbus, Ohio 43215 shall be included in the bid price
- III. Additional Requirements: Bidder shall provide documentation that demonstrates they are a Minority Business Enterprise certified by the Equal Employment Opportunity Coordinator, that such certification is in effect as of the time of the bidder's response to this ITB, and will remain in effect on and after the date any contract is executed for work

EVALUATION AND AWARD

Evaluation Process

The evaluation process may consist of up to four distinct phases:

1. The procurement representative's initial review of all bids for timely submission;
2. The evaluation committees opening and review of the bids;

3. The procurement representative's bid tabulation and award recommendation.

Evaluation Criteria

The state will evaluate the bid based upon total cost per hour, including set up, shipping and handling cost as described in the specifications.

Contract Award Process

Development plans to award the contract based on the schedule in the ITB, if the State decides the project is in its best interests and has not changed the award date.

The award decisions of Development are final. All bidders will be notified in writing of the outcome of their bids after Development makes its decision.

Upon the approval of the award recommendation issued by the procurement representative, a notice of contract award will be sent to the awarded contractor(s).

Number of Awards

Development anticipates making one award depending on program needs and contractor fit.

Funding Approval Threshold

In the event that expenditures with an awarded contractor exceed \$50,000 in spending under this agreement or exceed \$50,000 in aggregate spending across all contracts between the contractor and Development; further expenditures with that contractor under this agreement will be subject to State of Ohio Controlling Board approval.

STANDARD TERMS AND CONDITIONS

This Agreement is made and entered into by and between the **State of Ohio, Department of Development ("Sponsor")**, and **the awarded contractor as result of this ITB ("Contractor")**.

1. Controlling Board Approval. Pursuant to Ohio Revised Code (ORC) Section 127.16(B), this Agreement shall not be valid and enforceable until the Controlling Board of the State of Ohio has approved the expenditure of the funds pursuant to the terms of this Agreement.
2. Statement of Work. Contractor shall undertake and complete the work and activities set forth in the specifications which is attached hereto, made a part hereof, and incorporated herein by reference as if fully rewritten herein. Contractor shall consult with the personnel of Sponsor and with other appropriate persons, agencies, or instrumentalities as necessary to ensure a complete understanding of the work and satisfactory completion thereof.
3. Sponsor's Instructions. Sponsor may, from time to time as it deems appropriate and

necessary, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Agreement. Upon such notice and within a reasonable time, Contractor shall comply with such instructions and fulfill such requests to the satisfaction of Sponsor. It is expressly understood by the parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement. However, they are not intended to amend or alter the terms of this Agreement or any part thereof.

4. Time of Performance. This Agreement shall be binding upon both parties, and the work described in this Agreement shall commence once a valid State of Ohio purchase order has been issued and all activities under this Agreement shall be completed not later than the time prescribed in the Contractor's bid and agreed to by the Sponsor, on which date this Agreement expires. In the event that the work hereunder is to be done in separate phases, each phase shall be completed within the time prescribed in the Contractor's bid and agreed to by the Sponsor.

5. Compensation. In consideration of the promises of Contractor herein, Sponsor agrees to pay Contractor at the rates set forth in Exhibit I on a reimbursement basis upon Sponsor's receipt and approval of proper invoices. Contractor shall not be compensated for services rendered hereunder except as expressly set forth herein. The total compensation to be paid to Contractor under this Agreement shall not exceed total bid price as prescribed in the Contractor's bid.

6. Proper Invoicing Method. Contractor shall be required to submit proper invoices that are itemized and show all of the following:

- (a) Performance of the service;
- (b) Date or dates of the rendering of the service;
- (c) An itemization of the things or service done, the material supplied or the labor furnished;
and
- (d) The sum due pursuant to that invoice in relation to the total compensation owed under the Agreement.

The adequacy and sufficiency of such invoices shall be determined solely by Sponsor. If Sponsor determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required for a particular invoice, the burden of providing the required information or documentation is on Contractor. Costs incurred by Contractor which are associated with providing the required additional information or documentation and costs which are related to defending an inadequate or insufficient invoice shall not be charged to Sponsor and shall not be considered an allowable expense under this Agreement. Failure to comply with this section shall delay payment to Contractor under this Agreement.

7. Contractor's Expenses. Contractor shall solely be responsible for all office, business, and personnel expenses associated with the performance of this Agreement.

8. Travel Expenses. If contemplated under this Agreement, Contractor, its employees or agents, shall be reimbursed for travel expenses in amounts not to exceed the maximum rates as set forth in Ohio Administrative Code Section 126-1-02, as updated from time to time.

9. Termination. Either Sponsor or Contractor may terminate this Agreement upon thirty (30) days written notice to the other party if it is determined that the product and application of the activities set forth in this agreement is inadequate for the intended use, can not be feasibly adapted for the intended use, or upon just cause. Upon notice of termination, Contractor shall cease all work under this Agreement and shall take all necessary or appropriate steps to limit disbursements and minimize costs in ceasing all work. Contractor shall be required to furnish a report setting forth the status of all activities under the Agreement including, but not limited to, the work completed and the payments received by Contractor and such other information as Sponsor may require. Contractor shall be entitled to compensation for work completed through the date Contractor received notice of termination upon submission and approval of proper documentation or invoices.

10. Records Maintenance and Access.

(a) Maintenance of Records. Contractor shall establish and maintain for at least three (3) years after the last day of the Term of the Agreement or earlier termination of this Agreement its records regarding this Agreement, including, but not limited to, financial reports, job creation and retention statistics, and all other information pertaining to Contractor's performance of its obligations under this Agreement. Contractor also agrees that any records required by Sponsor with respect to any questioned costs, audit disallowances, litigation or dispute between Sponsor and Contractor shall be maintained for the time needed for the resolution of such question or dispute.

(b) Inspection and Copying. At any time during normal business hours and upon not less than twenty-four (24) hours prior written notice, Contractor shall make available to Sponsor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement which are in the possession or control of Contractor, including, but not limited to, records of personnel. Sponsor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records, and any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with the normal business operations of Contractor. Contractor shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this Section 10(b) from Contractor's other records of operation.

11. Certification of Funds. It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the Ohio Revised Code, including but not limited to section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that federal funds are used, until such time that Sponsor gives Contractor written notice that such funds have been made available to Sponsor by Sponsor's funding source. Sponsor shall provide Contractor with written evidence of the Controlling Board action within 30 days after the date on which the Controlling Board considered the appropriation request.

12. Equal Employment Opportunity. Pursuant to Ohio Revised Code Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, disability, national origin, military status, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Agreement. Contractor further agrees that Contractor, any subcontractor and any person acting on behalf of Contractor or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability, national origin, military status or ancestry. Contractor represents that it has a written affirmative action program for the employment and effective utilization of disadvantaged persons and will file a description of that program and a progress report on its implementation with the equal employment opportunity office of the department of administrative services.

13. Forbearance. No act of forbearance or failure to insist on the prompt performance by Contractor of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Sponsor of any of its rights hereunder.

14. Indemnification. Contractor agrees to indemnify and to hold the Sponsor and State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement and Contractor's performance of the obligations or activities in furtherance of the Project which are attributable to the Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Contractor, or joint venturers while acting under this Agreement. Such claims shall include, but are not limited to, any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks. Contractor shall bear all costs associated with defending the Sponsor and the State of Ohio against any claims.

15. Ohio Ethics Laws. In accordance with Executive Order 2007-01S, Contractor, by its signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 *et seq.*, §§2921.01, 2921.42, 2921.421 and 2921.43, and §§3517.13 (I) and (J), and (3) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State.

16. Ohio Elections Law. Contractor affirms that, as applicable to Sponsor, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

17. Conflict of Interest. No personnel of Contractor, subcontractor of Contractor or personnel of any such subcontractor, or public official who exercises any functions or responsibilities in

connection with the review or approval of any work completed under this Agreement shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any such person, who, prior to or after the execution of this Agreement, acquires any personal interest, involuntarily or voluntarily, shall immediately disclose his interest to Sponsor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Sponsor determines that, in light of the personal interest disclosed, his participation in any such action would not be contrary to the public interest.

18. Drug-Free Workplace Compliance. In the event that work performed pursuant to the terms of this Agreement will be done while on state property, Contractor hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

19. Adherence to State and Federal Laws, Regulations. Contractor agrees to comply with all applicable federal, state, and local laws related to the Contractor's performance of the obligations of this Agreement. The Contractor accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Contractor in the performance of the requirements of this Agreement.

20. Unresolved Findings. Contractor warrants that it is not subject to an unresolved finding for recovery under O.R.C. 9.24. If this warranty is deemed to be false, this Agreement is void *ab initio* and the Contractor must immediately repay to the Sponsor any funds paid under this Agreement.

21. Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization. If applicable, Contractor must certify compliance with Ohio Revised Code Section 2909.33.

22. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

(b) Forum and Venue. All actions regarding this Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio.

(c) Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of

such provisions of this Agreement.

(e) Conflict of Provisions. Should it be determined that a provision within this Agreement conflicts with a provision set forth in the License and Service Agreement, then the language of License and Service Agreement shall control as being the more specific terms and conditions of the Agreement.

(f) Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

Notwithstanding the foregoing, ordinary communications regarding the status of services being provided by Contractor may be sent by electronic mail to the designated representatives of Sponsor and Contractor.

(g) Amendments or Modifications. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

(h) Pronouns. The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

(i) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(j) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Contractor without the prior express written consent of Sponsor.