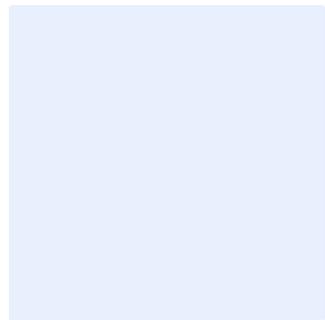




State of Ohio

REQUEST FOR BID



The signed document must be submitted to receive consideration for award.		BIDDER NAME	
BID NUMBER	OPENING DATE/TIME (01:00 p.m.)	STREET ADDRESS <input type="checkbox"/> Check if remit address is different and list on separate sheet	
OPF2016-01	DATE: 5/8/2015	CITY	STATE ZIP
Attn: Michael Makonnen, Purchasing Agent DAS GSD Business Office 30 East Broad St., 39 th Floor Columbus, Ohio 43215-2880		COUNTY	MBE/EDGE CERTIFICATE NUMBER
		TELEPHONE NO.	TOLL FREE NO.
		CONTACT PERSON	FAX NO.
		CONTRACTOR'S E-MAIL ADDRESS	
REQ./INDEX NO. OPFMMA100	NOTICE DATE 4/17/2015		
SELECT YOUR PREFERRED METHOD OF RECEIVING PURCHASE ORDERS AND ENTER THE E-MAIL OR FAX NUMBER INFORMATION (ONLY SELECT ONE METHOD)			
<input type="checkbox"/> E-Mail <input type="checkbox"/> Fax			
In addition to the standard terms for payment, the payment terms for state agency(ies) will be 2%, 10 Days, Net 30 Days unless otherwise stated in the following space. If no discount is offered, bidder should circle "Net 30 Days". _____%, _____ Days, Net 30 Days			
BILL TO: Department of Administrative Services Ohio Shared Services P.O. Box 182880 (877)644-6771 Columbus, Ohio 43218-2880		SHIP TO: Where applicable	
DELIVERY REQUESTED		DELIVERY OFFERED (IF DIFFERENT)	
F.O.B./DEST. P.P.D. _____		F.O.B./DEST. P.P.D. _____	

MBE SET ASIDE IN ACCORDANCE WITH ORC 125.081

THIS REQUEST IS FOR:

This request is for carpet cleaning services for nine (9) DAS facilities in Columbus, Cleveland, Akron and Toledo.

TIME OF PERFORMANCE: This contract will become effective on 7/1/2015, or the date of the signature by the State of Ohio on this contract, whichever is later. This contract shall remain in effect, June 30, 2017, or until terminated as provided in this contract.

The signed request must be submitted to the attention of Michael Makonnen, GSD Business Office, 30 E. Broad St., 39th Floor, Columbus, Ohio 43215, by 01:00 p.m, on the above listed opening date to receive consideration for award.

CERTIFICATION STATEMENTS

- I. **DOMESTIC AND/OR OHIO PREFERENCE**: The agency is applying preference for Domestic and/or Ohio preference as defined in the Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06. Bidders claiming preference for Domestic Source End Products and/or the Ohio preference must complete the following information. **Any bidder who intentionally submits false or misleading information in an attempt to receive a bid preference will be immediately disqualified and may be subject to legal action up to and including debarment.** 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 AMERICAN): [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 American 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

- II. **E.D.G.E. DESIGNATION**: Is the bidder a 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://www.das.ohio.gov/Divisions/EqualOpportunity/tabid/80/Default.aspx>

- III. **INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT**: Contractor certifies that Contractor is a "business entity" as that term is defined in O.R.C. Section 145.037. See SUPPLEMENTAL CONTRACT TERMS AND CONDITIONS, S-19. Independent Contractor Acknowledgement. Bidder is defined as a business entity Yes No

INQUIRIES: All inquiries should be submitted a minimum of 5 working days prior to the opening date through the Procurement website, www.procure.ohio.gov. Click "Find it Fast," select "Doc/Bid/Schedule#" in Step 1, enter the Bid/Quote Number in Step 2, click "Find it Fast." The "Submit Inquiry" button is at the bottom of the Opportunity Detail page. Bidders will not receive a personalized e-mail response to their question, nor will they receive notification when the question is answered. Responses may be viewed by clicking the "View Q & A" button located beneath the "Submit Inquiry" button.

SPECIAL CONTRACT TERMS AND CONDITIONS

Amendments to Contract Terms and Conditions

Amendments to Contract Standard Terms and Conditions. The following Amendments to the Standard Contract Terms and Conditions do hereby become a part hereof. In the event that an amendment conflicts with the Standard Contract Terms and Conditions, the Amendment will prevail.

Delivery and Acceptance. Services will be performed as set forth in the Contract and in accordance with paragraphs S-7, S-8, and S-9 of the SUPPLEMENTAL CONTRACT TERMS AND CONDITIONS. The location of performance will be noted on the purchase order issued by the participating agency. Payment for services rendered will occur upon the inspection and written confirmation by the ordering agency that the services provided conform to the requirements set forth in the Contract. Unless otherwise provided in the Contract, payment shall be conclusive except as to latent defects, fraud, or such gross mistakes as amount to fraud.

Evaluation. The contract will be awarded to the lowest responsive and responsible bidder as determined by the State.

Contract Award. The contract will be awarded to the lowest responsive and responsible bidder by county/city.

MINORITY BUSINESS ENTERPRISE (MBE) SET ASIDE: The State is committed to making more State contracts and opportunities available to minority business enterprises (MBE) certified by the Ohio Department of Administrative Services (DAS) pursuant to Section 123.151 of the Ohio Revised Code and Rule 123:2-15-01 of the Ohio Administrative Code. This ITB is being issued as a minority set aside contract in accordance Section 125.081 of the Ohio Revised Code. All bidders must be an Ohio certified MBE as of the Bid opening date. If a certification application has been submitted that needs to be expedited to meet the solicitation opening date, contact the DAS Equal Opportunity Division at 614-466-8380. For more information regarding Ohio MBE certification requirements, including a list of Ohio certified MBE business, please visit the DAS Equal Opportunity Division web site at: <http://das.ohio.gov/Divisions/EqualOpportunity/MBEEDGECertification/tabid/134/default.aspx>

Bid Automobile Liability Checklist: (Supplies and Services) The following pertains to paragraph S-13 of the Supplemental Terms and Conditions. If Box 1 is checked verify automobile liability insurance for the amount indicated is provided by the contractor prior to award.

Contractor will indicate, by checking the appropriate box(es) below, which mode of transportation will apply to this contract.

- Bidder/Broker ("The Contractor") or their Sub Contractor will make delivery or be performing services using a vehicle that is owned, leased or rented. Provide Certificate of Insurance documenting automobile liability with a Combined Single Limit of \$500,000.00.
- Goods/Services will be delivered via common carrier.
- No employee or representative of the contractor will have cause to be on state property to make deliveries or to perform services.

STATE OF OHIO

INSTRUCTIONS, TERMS AND CONDITIONS

I-1. Bids are a Public Record. Once bids have been opened they may be considered public record as defined in Ohio Revised Code ("O.R.C.") Section 149.43 and are subject to inspection and copying. Bidder may request that certain information, such as trade secrets or proprietary data, be designated as confidential and not considered as public records. Such requests must be accompanied by the statutory exemption from Ohio's Public Records Act, Chapter 149 of the O.R.C. Any confidential material shall accompany the bid in a sealed container marked "confidential", and shall be readily separable from the bid in order to facilitate public inspection of non-confidential portion. Prices, makes, models, catalog numbers of items offered, deliveries and terms of payment shall not be considered as confidential. The decision as to whether or not such trade secrets or proprietary data shall be disclosed at the bid opening rests solely with the State.

I-2. Bids are Firm for 90 Days. Unless stated otherwise, once opened all Bids are irrevocable for ninety (90) days. Beyond ninety (90) days, bidder will have the option to honor their Bid or make a written request to withdraw their Bid from consideration.

I-3. Bid Preparation. The State of Ohio assumes no responsibility for costs incurred by the Bidder prior to the award of any Contract resulting from this Bid. Total liability of the State is limited to the terms and conditions of a resulting Contract.

I-4. Suspension and Debarments. The State will not award a contract for supplies or services, funded in whole or in part with Federal funds, to a person who has been suspended or debarred from doing business with the State of Ohio or who appears on the Federal List of Excluded Parties Listing System <https://www.sam.gov/portal/public/SAM/>

I-5. Registration with the Secretary of State. The Bidder certifies that the Bidder is:

(A) an Ohio corporation that is properly registered with the Ohio Secretary of State; or

(B) a foreign corporation, not incorporated under the laws of the State of Ohio, but is registered with the Ohio Secretary of State pursuant to O.R.C. Sections 1703.01 to 1703.31, as applicable.

Any foreign corporation required to be licensed under O.R.C. Sections 1703.01 to 1703.31, which transacts business in the State of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than \$250 nor more than ten thousand dollars. No officer of a foreign corporation shall transact business in the State of Ohio, if such corporation is required by O.R.C. Sections 1703.01 to 1703.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the fourth degree.

I-6. Certification Regarding Contract Eligibility With Other Governmental Entities. The Bidder certifies that Bidder has not, within the last seven (7) years been the subject of any government action to limit the Bidder's right to do business with the government. If the Bidder cannot so certify, the Bidder must provide a written explanation with the bid response.

I-7. Non-Collusion Certification. The Bidder certifies that he/she is (sole owner, partner, president, secretary, etc.) of the party making the forgoing bid; that such bid is genuine and not collusive or sham; that bidder has not colluded, conspired or agreed, directly or indirectly, with any bidder or person, to put in a sham bid; or colluded or conspired to have another not bid and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the bid price of its bid or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against any bidder or any person or persons interested in the proposed contract and that all statements contained in the bid are true; and further, that the Bidder has not, directly or indirectly, submitted this bid, or the contents thereof, or divulged any related information or data to any association or to any member or agent of any association.

I-8. Electronic Commerce Program. The State of Ohio is an active participant in E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the Contractor by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Contractor is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio. Information regarding E-Commerce is available on the Office of Budget and Management's website at <http://obm.ohio.gov/StateAccounting/edi/default.aspx>

I-9. Use of Social Security Numbers as Federal Tax Identification Numbers. The State requires vendors and contractors wishing to do business with the State to provide their Federal Taxpayer Identification Number to the Department. The Department does this so that it can perform statutorily required "responsibility" analyses on those vendors and contractors doing business with the State and, under limited circumstances, for tax reporting purposes. If you are a vendor or contractor using your Social Security Number as your Federal Taxpayer Identification Number, please be aware that the information you submit is a public record, and the Department may be compelled by Ohio law to release Federal Taxpayer Identification Numbers as a public record. If you do not want to have your Social Security Number potentially disclosed as a Federal Taxpayer Identification Number, the Department encourages you to use a separate Employer Identification Number (EIN) obtained from the United States Internal Revenue Service's to serve as your Federal Taxpayer Identification Number.

I-10. Expenditure of Public Funds on Offshore Services. The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

The Offeror must complete the attached [Contractor/Subcontractor Affirmation and Disclosure form 5.2.8](#) to abide with Executive Order 2011-12K affirming no services of the Contractor or its subcontractors under this Contract will be performed outside the United States. During the performance of this Contract, the Contractor must not change the location(s) of the country where the services are performed, change the location(s) of the country where the data are maintained, or made available unless a duly signed waiver from the State has been attained to perform the services outside the United States.

GENERAL SPECIFICATIONS

I. SCOPE:

- This request for bid (Bid) to clean carpets in listed DAS regions that includes Facilities in Columbus, Cleveland, Akron and Toledo, on a rotating schedule, so that carpet fiber resiliency is preserved and clean appearance is maintained. All carpeting will receive one restorative cleaning per year and higher traffic areas will be cleaned progressively more often depending upon soilage. The cleaning includes State owned walk-off mats.
 - Carpet Cleaners should be IICRC certified
 - Carpets should be cleaned in accordance with the IICRC R100 standards
 - The only authorized method of carpet cleaning is high performance hot water extraction system.
 - Each facility location receives a full carpet cleaning at least annually and the remaining visits are to address traffic patterns and areas of high soilage.
 - Maintain a high appearance level in the most highly trafficked areas.
 - During the inclement weather months, the common areas (i.e. entrances, walk-off areas, lobbies, etc.) will receive additional attention via hot water extraction in efforts to prevent tracking of soil and salt into the facility.

Preconditioning

- Preconditioning aids significantly in suspending soils before physical removal takes place.
- Cleaners should carefully treat each area in succession with liquid dry compound, or foam preconditioner, based on the requirements of the cleaning method or system employed.
- Furniture normally is not moved to precondition underneath, unless extreme soiling is evident or unless company policy dictates otherwise.
- When a cleaner chooses to rinse with an acidic rinsing agent or with fresh water alone, preconditioning agents may need to be applied to most, if not all of the carpet.
- It is recommended that when cleaners choose a preconditioner that requires wet extraction, they apply it to only the amount of carpet that they can agitate as necessary and clean before the preconditioner dries.

Cleaning Evaluation and Post Inspection

- After cleaning of the designated carpet area(s), the cleaner(s) should thoroughly inspect the carpet. This includes:
 - inspecting for incomplete spot removal;
 - inspecting traffic lanes, pivot points, and entry areas for satisfactory appearance, and
 - inspecting for excessive dampness, if necessary.
- damage should be brought to the attention of the property manager or other appropriate authority and documented in writing on work orders or job evaluation forms.

Waste Disposal

- Recovered cleaning waste shall be disposed of properly, according to all applicable laws and regulations. Normally, this means liquid disposal into a sanitary sewer system especially where hazardous materials (HAZMAT) may be involved, at a licensed disposal facility. Cleaners should never rinse or dispose of wastewater from equipment in sinks that are used for food preparation or other sanitary purposes. In the event that waste disposal is not possible on location, the waste should be returned to the Company facility for proper disposal.

Finalizing

- Although most commercial carpet does not need grooming, most cut-pile carpet will benefit from a resetting of the pile using a carpet rake, broom, or mechanical brushing device immediately, following leaning or as part of the final cleaning step.
- If a multi-person crew is present and available for such tasks, the finalizing process may begin while the

final cleaning steps are being performed.

- Cleaners should perform a general wipe-down of the exterior of each equipment item and otherwise prepare it for proper reloading or storage, as necessary.
 - Any building areas used for water access, chemical mixing or waste disposal should be left in a clean, orderly state.
 - cleaners should perform a final repositioning of furniture, if necessary;
 - cleaners should ensure that furniture is properly tabbed or blocked, if necessary;
 - all equipment, tools, and supplies are properly reloaded or stored, except any items such as drying aids or hazard indicators that may have other removal arrangements;
 - lights should be turned off, as appropriate or as required;
 - Doors should be closed and secured, if required, and security systems should be reset, if required.
 - Security systems should be reset, if required.

II. CONTRACT AWARD:

The contract will be awarded to the lowest responsive and responsible bidder for each of the following three regions: Central Ohio Region, North West Region, and North East Region, separately. An MBE vendor can bid in its bid region only or may include another bid region/city.

III. PRICE: Contract price of a region will remain the same and will apply to newly added facilities in the region in the future.

Facility Name	Cleaning Service Intervals/Yr.	SF/YR	Price/SF	Total Price Per Month	Total Price Per Year
Central Ohio Region					
Rhodes Tower 30 E. Broad St, Columbus , Ohio 43215	52-104	1,217,294			
246 N. High & 35 E. Chestnut , Columbus, Ohio 43215	12-24	528,500			
4200 Surface Rd., Columbus, Ohio 43228	12	88,260			
25 S. Front St., Columbus, Ohio 43215	12				
Vern Riffe Center , for Government & the Arts, 77 S. High St., Columbus, Ohio 43215	52	603,102			
Central Ohio Region Bid Price		Total SF: 2,437,156.00	\$ ____ Cents/ SF*	\$ _____	\$ _____
North West Region					
Michael DiSalle Government Center, 640 Jackson St., Toledo, Ohio 43604	24	543,404	\$ ____ Cents/ SF	\$ _____	\$ _____
North West Region Bid Price		Total SF: 543,404			
North East Region					
Frank J. Lausche State Office Building, 615 W. Superior Ave., Cleveland, Ohio 44113	24	425,722			
Oliver J. Ocasek Government Office Building, 161 S. High St., Akron, Ohio 44308	12	212,616			
North East Ohio Region Bid Price		Total SF: 638, 338	\$ ____ Cents/ SF	\$ _____	\$ _____

* SF stands for Square foot

TOTAL CONTRACT AMOUNT: \$

IV. RENEWAL

This Contract may be renewed after the ending date of the Contract solely at the discretion of DAS for a period of one month. Any further renewals will be by mutual agreement between the contractor and DAS for any number of times and for an appropriate period of time. The cumulative time of all mutual renewals may not exceed twenty four (24) months unless DAS determines that additional renewal is necessary.

V. INVOICING

- A. All invoices shall be received by DAS within 30 days of cleaning completion.
- B. All invoices should be submitted DIRECTLY to Ohio Shared Services (OSS). In addition contractor ensures that all required information is on invoices before submission to OSS, per instructions on the Purchase Order.

VI. MANDATORY PRE BID CONFERENCE DATES:

Approximately two (2) week prior to the scheduled bid opening, a Pre-Bid Conference will be held for the purpose of considering questions posed by bidders. The pre bid conference will be held on April 21 – 24 at the following addresses:

Contact	Address	Date	Time
Contact: Ryan Dalton, Facility Manager 614-466-1268; ryan.dalton@das.ohio.gov	James A. Rhodes State Office Tower 30 E. Broad St, Columbus, Ohio 43215.	4/24/2015	9:00 AM
Contact: Eric Hanna, Facility Manager 614-614-332-1075; eric.hanna@das.ohio.gov	Ohio Department of Health 246 N. High St. & 35 E. Chestnut , Columbus, Ohio 43215.	4/24/2015	12:00 PM
Contact: David Grzechowiak, Metro Facility Manager: 614-493-7130; david.grzechowiak@das.ohio.gov	Office of Properties and Facilities 4200 Surface Rd., Columbus, Ohio 43228	4/24/2015	3:00 PM
Contact: Noel Rozelle, Facility Manager: 614-493-6892; noel.rozelle@das.ohio.gov	Ohio Department of Education, 25 S. Front St., Columbus, Ohio 43215	04/24/2015	1:30 PM
Contact: Brian Hammen, Facility Manager: 614-554-9408 brian.hammen@das.ohio.gov	Vern Riffe Center for Government & the Arts 77 S. High St., Columbus, Ohio 43215	04/24/2015	10:30 AM
Contact: Patrick Kelleher, Facility Manager: 419-245-3080 or 614-332-9853 (Cell) Patrick.Kelleher@das.ohio.gov	Michael Disallow Government Center 640 Jackson St., Toledo, Ohio 43604	4/23/2015	10:00 AM
Contact: Timothy Davis: Facility Manager: 330-643-1790 or 614-306-3307; timothy.davis@das.ohio.gov	Frank J. Launched State Office Building 615 W. Superior Ave., Cleveland, Ohio 44113	4/21/2015	01:00 PM
Contact: Timothy Davis: Facility Manager: 330-643-1790 timothy.davis@das.ohio.gov	Oliver J. Case Government Office Building 161 S. High St., Akron, Ohio 44308	04/21/2015	9:00 AM.

STATE OF OHIO

STANDARD CONTRACT TERMS AND CONDITIONS

I. CONTRACT TERM PROVISIONS:

- A. **APPROPRIATION OF FUNDS.** The State of Ohio's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding for the payments or obligations due hereunder, the Work under this Contract that is affected by the lack of funding will terminate and the State will have no further obligation to make any payments and will be released from its obligations on the date funding expires.
- B. **OBM CERTIFICATION.** None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance, until all of the following conditions have been met:
1. All statutory provisions under the O.R.C., including Section 126.07, have been met.
 2. All necessary funds are made available by the appropriate state agencies.
 3. If required, approval of this Contract is given by the Controlling Board of Ohio; and
 4. If the State is relying on Federal or third-party funds for this Contract the State gives the Contractor written notice that such funds have been made available.
- C. **TERMINATION / SUSPENSION.**
1. **Contract Termination.** If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the State may terminate this Contract in accordance with this section. The termination will be effective on the date delineated by the State.
 - a. **Termination for Default.** If Contractor's default is unable to be cured in a reasonable time, the State may terminate the Contract by written notice to the Contractor.
 - b. **Termination for Unremedied Default.** If Contractor's default may be cured within a reasonable time, the State will provide written notice to Contractor specifying the default and the time within which Contractor must correct the default. If Contractor fails to cure the specified default within the time required, the State may terminate the Contract. If the State does not give timely notice of default to Contractor, the State has not waived any of the State's rights or remedies concerning the default.
 - c. **Termination for Persistent Default.** The State may terminate this Contract by written notice to Contractor for defaults that are cured, but are persistent. "Persistent" means three or more defaults. After the State has notified Contractor of its third default, the State may terminate this Contract without providing Contractor with an opportunity to cure, if Contractor defaults for a fourth time. The four defaults are not required to be related to each other in any way.
 - d. **Termination for Endangered Performance.** The State may terminate this Contract by written notice to the Contractor if the State determines that the performance of the Contract is endangered through no fault of the State.
 - e. **Termination for Financial Instability.** The State may terminate this Contract by written notice to the Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.
 - f. **Termination for Delinquency, Violation of Law.** The State may terminate this Contract by written notice, if it determines that Contractor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. The State also may cancel this Contract, if it determines that Contractor has violated any law during the performance of this Contract. However, the State may not terminate this Contract if the Contractor has entered into a repayment agreement with which the Contractor is current.
 - g. **Termination for Subcontractor Default.** The State may terminate this Contract for the default of the Contractor or any of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Subcontractors will hold the State harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Contractor for any compensation to which they may be entitled.

- h. **Termination for Failure to Retain Certification.** Pursuant to O.R.C. Section 125.081, the State may set aside a bid for supplies or services for participation only by minority business enterprises (MBE's) certified by the State of Ohio, Equal Opportunity Coordinator. After award of the Contract, it is the responsibility of the MBE Contractor to maintain certification as a MBE. If the Contractor fails to renew its certification and/or is de-certified by the State of Ohio, Equal Opportunity Coordinator, the State may immediately cancel the Contract.
 - i. **Termination for Convenience.** The State may terminate this Contract for its convenience after issuing written notice to the Contractor. If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any supplies or products that the Contractor has delivered or services rendered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only after the Contractor has submitted a proper invoice for the services, products or supplies, with the invoice reflecting the amount determined by the State to be owing to the Contractor.
 - j. **Termination, Effectiveness, Contractor Responsibilities.** The notice of termination whether for cause or without cause will be effective as soon as Contractor receives it. Upon receipt of the notice of termination, Contractor will immediately cease all work on the Project, if applicable, and refuse any additional orders and take all steps necessary to minimize the costs the Contractor will incur related to this Contract. The Contractor will immediately prepare a report and deliver it to the State. The report must detail either the work completed at the time of termination or the orders received and not processed prior to termination, and if applicable, the percentage of the Project's completion, estimated time for delivery of all orders received prior to termination, any costs incurred by the Contractor in doing the Project to date and any services completed or partially completed but not delivered to the State at the time of termination. Any and all work, whether completed or not, will be delivered to the State along with the specified report. However, if delivery in that manner would not be in the State's interest, then the Contractor will propose a suitable alternate form of delivery.
2. **Contract Suspension.** If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the State may suspend rather than terminate this Contract where the State believes that doing so would better serve its interest.

In the case of a suspension for the State's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as provided in this section for termination for the State's convenience or the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault.

The notice of suspension, whether with or without cause, will be effective immediately on the Contractor's receipts of the notice. The Contractor will immediately prepare a report and deliver it to the State as is required in the case of termination.

II. CONTRACT REMEDIES:

- A. **ACTUAL DAMAGES.** Contractor is liable to the State of Ohio for all actual and direct damages caused by Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Contractor's default, from Contractor.
- B. **LIQUIDATED DAMAGES.** If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the services, products or supplies that is the subject of the default, for every day that the default is not cured by the Contractor.
- C. **DEDUCTION OF DAMAGES FROM CONTRACT PRICE.** The State may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the contract, upon prior written notice to being issued to the Contractor by the State.

III. PAYMENT PROVISIONS:

- A. **INVOICE REQUIREMENTS.** The Contractor must submit an original invoice to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:
 - 1. The purchase order number authorizing the delivery of products or services.
 - 2. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information.

- B. PAYMENT DUE DATE.** Payments under this Contract will be due on the 30th calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice, or the date the service is delivered and accepted in accordance with the terms of this Contract. The date of the warrant issued in payment will be considered the date payment is made. Interest on late payments will be paid in accordance with O.R.C. Section 126.30

IV. CONTRACTOR WARRANTY AND LIABILITY PROVISIONS:

- A. CONTRACTOR'S WARRANTY AGAINST AN UNRESOLVED FINDING FOR RECOVERY.** Contractor warrants that it is not subject to an unresolved finding for recovery under O.R.C. Section 9.24. If the warranty was false on the date the parties signed this Contract, the Contract is void *ab initio*.

- B. GENERAL REPRESENTATIONS AND WARRANTIES.** The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will:

1. Be in accordance with the sound professional standards and the requirements of this Contract and without any material defect.
2. No services, products or supplies will infringe on the intellectual property rights of any third party.
3. All warranties are in accordance with Contractor's standard business practices attached.
4. That the products or supplies hereunder are merchantable and fit for the particular purpose described in this contract.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that:

5. The Contractor has the right to enter into this Contract.
6. The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract.
7. The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control.
8. The Contractor has good and marketable title to any products or supplies delivered under this Contract and which title passes to the State.
9. The Contractor has the right and ability to grant the license granted in products or supplies in which title does not pass to the State.

If any services of the Contractor or any products or supplies fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the services, products or supplies. The Contractor will also indemnify the State for any direct damages and claims by third parties based on breach of these warranties.

- C. INDEMNITY.** The Contractor will indemnify the State for any and all claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities resulting from bodily injury to any person (including injury resulting in death) or damage to property that may arise out of or are related to Contractor's performance under this Contract, providing such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors.

The Contractor will also indemnify the State against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property rights based on the State's proper use of any products or supplies under this Contract. This obligation of indemnification will not apply where the State has modified or misused the products or supplies and the claim of infringement, is based on the modification or misuse. The state agrees to give the Contractor notice of any such claim as soon as reasonably practicable and to give the Contractor the authority to settle or otherwise defend any such claim upon consultation with and approval by the Office of the State Attorney General. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will take one (1) of the following four (4) actions:

1. Modify the products or supplies so that is no longer infringing.
2. Replace products or supplies with an equivalent or better item.
3. Acquire the right for the State to use the infringing products or supplies as it was intended for the State to use under this Contract; or
4. Remove the products or supplies and refund the fee the State paid for the products or supplies and the fee for any other products or supplies that required the availability of the infringing products or supplies for it to be useful to the State.

- D. **LIMITATION OF LIABILITY.** Notwithstanding any limitation provisions contained in the documents and materials incorporated by reference into this contract, the parties agree as follows:
1. Neither party will be liable for any indirect, incidental or consequential loss or damage of any kind including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of damages.
 2. The contractor further agrees that the contractor shall be liable for all direct damages due to the fault or negligence of the contractor.

V. **GENERAL PROVISIONS:**

- A. **AMENDMENTS.** No amendment or modification of this Contract will be effective unless it is in writing and issued by the State.
- B. **ANTITRUST ASSIGNMENT TO THE STATE.** Contractor assigns to the State of Ohio, all of its rights to any claims and causes of action the Contractor now has or may acquire under state or federal antitrust laws if the claims or causes of action relate to the supplies or services provided under this Contract. Additionally, the State of Ohio will not pay excess charges resulting from antitrust violations by Contractor's suppliers and subcontractors.
- C. **ASSIGNMENT / DELEGATION.** The Contractor will not assign any of its rights nor delegate any of its duties under this Contract without written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.
- D. **AUDITS.** The Contractor must keep all financial records in a manner consistent with generally accepted accounting principles. Additionally, the Contractor must keep separate business records for this Contract, including records of disbursements and obligations incurred that must be supported by contracts, invoices, vouchers and other data as appropriate.

During the period covered by this Contract and until the expiration of three (3) years after final payment under this Contract, the Contractor agrees to provide the State, its duly authorized representatives or any person, agency or instrumentality providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this Contract.

The Contractor shall, for each subcontract in excess of two thousand five hundred (\$2,500), require its subcontractors to agree to the same provisions of this Article. The Contractor may not artificially divide contracts with its subcontractors to avoid requiring subcontractors to agree to this provision.

The Contractor must provide access to the requested records no later than (5) five business days after the request by the State or any party with audit rights. If an audit reveals any material deviation from the Contract requirements, and misrepresentations or any overcharge to the State or any other provider of funds for the Contract, the State or other party will be entitled to recover damages, as well as the cost of the audit.

- E. **CONFIDENTIALITY.** The Contractor may learn of information, documents, data, records, or other material that is confidential in the performance of this Contract. The Contractor may not disclose any information obtained by it as a result of this Contract, without the written permission of the State. The Contractor must assume that all state information, documents, data, records or other material is confidential.

The Contractor's obligation to maintain the confidentiality of the information will not apply where it: (1) was already in the Contractor's possession before disclosure by the State, and it was received by the Contractor without the obligation of confidence; (2) is independently developed by the Contractor; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Contractor from a third party without an obligation of confidence; (5) is disclosed by the Contractor with the written consent of the State; or (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies the State of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the confidential information solely for the purposes intended to be serviced by the original order of production. The Contractor will return all originals of any information and destroy any copies it has made on termination or expiration of this Contract.

The Contractor will be liable for the disclosure of any confidential information. The parties agree that the disclosure of confidential information of the State's may cause the State irreparable damage for which remedies other than injunctive relief may be inadequate, and the Contractor agrees that in the event of a breach of the obligations hereunder, the State shall be entitled to temporary and permanent injunctive relief to enforce this provision without the necessity of providing actual damages. This provision shall not, however, diminish or alter any right to claim and recover.

- F. **CONTRACT CONSTRUCTION.** This Contract will be constructed in accordance with the plain meaning of its language and neither for nor against the drafting party.

- G. DRUG FREE WORKPLACE.** The Contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all 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.
- H. EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor will comply with all state and federal laws regarding equal employment opportunity, including O.R.C. Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using the Ohio Business Gateway Electronic Filing website <http://business.ohio.gov/efiling/>. Contractor must verify compliance on an annual basis for the duration of any contract. Approved Affirmative Action Plans can be found by going to the Equal Opportunity Division's web site: <http://eodreporting.oit.ohio.gov/searchAffirmativeAction.aspx>

- I. FORCE MAJEURE.** If the State or Contractor is unable to perform any part of its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightning; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; restraint of government and people; war; strikes; and other like events; or any cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.
- J. GOVERNING LAW / SEVERABILITY.** This Contract shall be governed by the laws of the State of Ohio, and the venue for any disputes will be exclusively with the appropriate court in Franklin County, Ohio. If any provision of the Contract or the application of any provision is held by that court to be contrary to law, the remaining provisions of the Contract will remain in full force and effect.
- K. HEADINGS.** The headings used in this Contract are for convenience only and will not affect the interpretation of any of the Contract terms and conditions.
- L. NOTICES.** For any notice under this Contract to be effective it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract.
- M. ORDER OF PRIORITY.** If there is any inconsistency or conflict between this document and any provision incorporated by reference, this document will prevail.
- N. PUBLICITY.** The Contractor will not advertise that it is doing business with the State or use this Contract as a marketing or sales tool without prior, written consent of the State.
- O. STRICT PERFORMANCE.** The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be construed as a waiver of any such term, and either party may at any time demand strict and complete performance by the other party.
- P. SUBCONTRACTING.** The State recognizes that it may be necessary for the Contractor to use a subcontractor to perform a portion of the work under the Contract. In those circumstances, the Contractor shall submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes occur during the term of the Contract, the Contractor shall supplement its list of subcontractors or joint venture business partners. In addition, all subcontractors or joint venture business partners agree to be bound by all of the Terms and Conditions and specifications of the Contract. The State reserves the right to reject any subcontractor submitted by the Contractor. All subcontracts will be at the sole expense of the Contractor and the Contractor will be solely responsible for payment of its subcontractors. The Contractor assumes responsibility for all sub-contracting and third party manufacturer work performed under the Contract. In addition, Contractor will cause all subcontractors to be bound by all of the Terms and Conditions and specifications of the Contract. The Contractor will be the sole point of contact with regard to all contractual matters.
- Q. SURVIVORSHIP.** All sections herein relating to payment, confidentiality, license and ownership, indemnification, publicity, construction warranties, limitations of warranties and limitations on damages shall survive the termination of this Contract.
- R. TAXES.** The State is exempt from all state and local taxes and does not agree to pay any taxes.

SUPPLEMENTAL CONTRACT TERMS AND CONDITIONS

S-1. Compensation. In consideration for Contractor's performance the ordering agency will pay Contractor directly at the rate specified in the Contract. Payments may be made by the Ohio Payment Card, an Auditor of State warrant or by electronic funds transfer (EFT). For all transactions the Contractor must have a valid W-9 form on file with the Office of Budget and Management. Registration in OBM's database requires the Contractor to complete a Vendor Information Form and IRS W-9 Form. The completed original form should be mailed to Vendor Maintenance, Ohio Shared Services. Information on submitting appropriate documents is available at <http://www.ohiosharedservices.ohio.gov/VendorsForms.aspx>

S-2. Term of Contract. This Contract is effective on July 1, 2015. The Contract remains in effect until the Contract is canceled or terminated by ODAS, or it expires at the end of a biennium, on June 30, 2017, whichever event occurs first.

S-3. Contract Renewal. This Contract may be renewed after the ending date of the Contract solely at the discretion of the State for a period of one month. Any further renewals will be by mutual agreement between the contractor and the State for any number of times and for an appropriate period of time. The cumulative time of all mutual renewals may not exceed twenty-four (24) months unless the State determines that additional renewal is necessary.

S-4. Price Adjustments. If the Contract provides for a price increase, Contractor may request a price increase in accordance with the Contract. If the State or the Contractor becomes aware of a general price decrease for the supplies or services provided under Contract, Contractor must provide a price decrease to the State of Ohio. Failure to provide a decrease will be considered as a default.

S-5. Workers' Compensation. Workers' compensation insurance, as required by Ohio law or the laws of any other state where work under this Contract will be done. The Contractor will also maintain employer's liability insurance with at least a \$1,000,000.00 limit.

S-6. Automobile and General Liability Insurance. During the term of the Contract and any renewal thereto, the Contractor, and any agent of the Contractor, at its sole cost and expense shall maintain a policy of Automobile Liability Insurance in accordance with the State and Federal laws, unless otherwise stated. In addition, Contractor shall carry Commercial General Liability Insurance coverage with a \$1,000,000 annual aggregate and a \$500,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside the policy limits. Such policy shall designate the State of Ohio as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation and a statement that the Contractor's commercial general liability insurance shall be primary over any other coverage. Umbrella/excess liability insurance may be used to meet the required limits and the coverage must follow form. The State reserves the right to approve all policy deductibles and levels of self-insured retention-captive insurance programs and may require the Contractor to have their policy(ies) endorsed to reflect per project / per location general aggregate limits.

If not submitted with the Bidder's response, copies of the respective insurance certificates shall be filed with the State within seven (7) calendar days after notification. Failure to submit the insurance certificates within this time period may result in the Bidder being deemed not responsive. Said certificates are subject to the approval of the State and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the State. Failure of the Contractor to maintain this coverage for the duration of the Contract, and any renewals thereto, may be considered as a default. All insuring companies shall have and maintain at least an A- (Excellent) rating from A.M. Best, unless otherwise approved by the State.

S-7. Contract Compliance. The agency is responsible to administer and monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. Therefore, the Contractor must respond to complaints about performance of the obligations in this Contract to such entity in a timely manner.

Any time the agency observes any performance or compliance issues, they shall do the following:

1. Timely document the compliance or performance issue.
2. Convey the issue to the Contractor and demand immediate correction.
3. Document the Contractor corrective actions or lack thereof.

If the Contractor fails to correct satisfactorily the performance or compliance issue, the State may employ all available options and remedies, including termination of the Contract if necessary to resolve the Contractor's continued nonperformance or noncompliance. Failure of the Contractor to respond to a notice of nonperformance or noncompliance may result in default of the Contractor, and may be cause for termination.

(A) Return goods of regular catalog stock merchandise, when due to agency error (i.e. over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the agency within six (6) months of delivery and acceptance. All items to be returned must be unused and in their original containers and in suitable condition for resale. The ordering agency will be responsible for all transportation costs associated with both the original shipment of items to the agency and the subsequent return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee associated with the return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee not to exceed their standard published restocking fee or equivalent restocking fee that is assessed to other customers of the Contractor. Return of regular stock catalog merchandise, when delivery and acceptance exceed six (6) months will be at the option of the Contractor.

S-8. Ohio Ethics. Contractor represents that it and its employees engaged in the administration or performance of this Contract are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

S-9. Debarment. Contractor represents and warrants that it is not debarred from consideration for contract awards by the State, pursuant to O.R.C. Section 125.25 or by any other governmental agency. If this representation and warranty is found to be false, this Contract is void *ab initio* and the Contractor shall immediately repay to the State any funds paid under this Contract.

S-10. Independent Contractor Acknowledgement. It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Administrative Services. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an independent contractor, it is not a public employee and is not entitled to contributions from the State to any public employee retirement system.

Contractor acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a "business entity" as that term is defined in O.R.C. Section 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business") Contractor shall have any individual performing services under the contract complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement found at the following link: <https://www.opers.org/forms/definitions/PEDACKN.shtml>.

Contractor's failure to complete and submit the Independent Contractor/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this contract, shall serve as Contractor's certification that contractor is a "Business entity" as the term is defined in O.R.C. Section 145.

Contractor certifies, by signature below that the information provided is accurate and complete. Additionally, contractor declares to have read and understood and agrees to be bound by all of the instructions, contract terms, conditions and specifications of this request and agrees to fulfill the requirements of any awarded contract at the prices bid.

This contract hereby incorporates the request to bid/quote the contractor's bid submission, including the Terms and Conditions for Bidding, Standard Contract Terms and Condition, special contract terms & conditions, any bid addenda, specifications, pricing schedules and any attachments incorporated by reference and accepted by the State become a part of this Contract.

IN WITNESS WHEREOF, the Parties by signing below indicate their agreement to this Contract.

Company Name

[Signature, Blue Ink Only] Must be an individual authorized to legally bind the Company indicated above.

[Print Name & Title]

Date

Date