



PROCUREMENT SERVICES

Request For Proposal

Marketing & Creative Services

RFP01-178581B01-MKTSVC-XXXXXX

Issue Date:	May 17, 2017
Pre-submittal Conference: Dial-In Conference Number: URL:	May 23, 2017 @ 11:00 AM EST 407-513-7123 https://sas.illuminate.com/m.jnlp?sid=679&password=M.89F304C596FC82CFB43ACEDEB3C374
Question & Answer Deadline:	May 30, 2017 @ 2:00 PM EST
Due Date/Time:	June 13, 2017 @ 2:00 PM EST
Direct All Inquiries in Writing To: Email Address	FLVS Procurement Services Karen Stolarenko kstolarenko@flvs.net

Sealed responses will be received by Florida Virtual School, in the Procurement Services Department on the first floor, 2145 Metrocenter Boulevard, Suite 100, Orlando, Florida 32835. Please note that receipt of response means DELIVERED AND DATE/TIME STAMPED RECEIVED IN THE PROCUREMENT SERVICES OFFICE. Responses delivered to the building, but not delivered to the Procurement Office and date/time stamped as received, will not be considered as received for the purpose of this solicitation process. Responses must be delivered in a SEALED package with the RFP name, RFP number, and opening date/time clearly marked on the outside of the package.

Responses will not be accepted or considered after the specified time and date listed above.



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FLORIDA VIRTUAL SCHOOL
REQUEST FOR PROPOSAL
Marketing and Creative Services

1. OVERVIEW

1.1 Purpose: Florida Virtual School (FLVS), hereafter referred to as the "district" or "FLVS", is seeking responses from qualified proposers interested in providing services for **Marketing & Creative Services**. The recommended award will be to the most qualified proposer(s) as determined by an evaluation committee. The final award will be based on Board approval (if total value is more than \$100,000) or Procurement Director approval (if total value is less than \$100,000).

1.2 District Profile:

Florida Virtual School is a statewide public school district providing elementary, middle and high school courses to Florida residents. All of our courses are fully online. FLVS (the district) is accredited as a system by Advanced Education, Inc. (AdvancedEd) and various FLVS schools are accredited by SACS CASI (Southern Association of College and Schools Council on Accreditation and School Improvement). Our courses meet the Florida Standards. As a school of choice, all public institutions within Florida must provide Florida families the option to choose FLVS for their courses. FLVS Global was created in 2000 by the Florida Legislature as the national and international arm of FLVS, As a not-for-profit institution, FLVS reinvests revenue from FLVS Global into the research and development of new educational technologies and the creation of the highest-quality courses, benefiting students in Florida and beyond.

1.3 Student Enrollment

1.3.1 FLVS Enrollments: FLVS annually serves more than 200,000 students who successfully complete more than 470,000 semester enrollments. We are projecting to serve more than 500,000 successful completions in the coming years.

- a. FLVS Full Time is a diploma granting school with standardized state testing that follows a traditional public school schedule and pace.
- b. FLVS Flex does not operate on a fixed calendar. FLVS courses are designed for semester-based terms. Since time is not a constant in our online courses, students have flexibility of pace.

1.3.2 Students can enroll in one or multiple courses at a time throughout the year as part of an open and rolling enrollment process. An enrollment in FLVS terms is a half credit in traditional terms. We do not differentiate between students taking a full-year course that is one full credit (or two half-credit enrollments) from a student that is taking two half credit courses (or two half-credit enrollments). One student could be active in six concurrent half-credit enrollments at one time.

1.4 Teachers

a. FLVS Teachers: Currently our instructional staff totals ~ 1,500 and we have a total of ~ 8,800 active classrooms in the system.

1.5 Prior to describing the statement of work, the following section shall provide an overall description of the contract scope, operational structure and pricing.

1.5.1 Contract Services, Structure, Term, Sequence and Pricing: FLVS shall enter into a “single contract” with a “single prime Proposer” or multiple proposers as deemed to be in FLVS’s best interest for all services as described under this RFP. It is the responsibility of the Proposer to partner as necessary and assemble the team, skills, assets and other qualifications to meet all requirements as laid out in the RFP. The selected Proposer shall assume all contractual responsibilities, obligations and comply with all contract terms and conditions.

1.5.2 Scope of Work: The scope of work under this contract is specified in Section 8 of this RFP.

1. Contract Structure: The Master Service Agreement (MSA) is the first Agreement that shall be exercised for five years with 2 two-year renewals as directed by FLVS. The Services SOW shall be exercised at FLVS discretion and shall have a term that does not exceed 12 months from the MSA expiration date. Separate and individual Scopes of Work (SOW) may be issued that are specific to the needs of the project.

1.6.2 Contract Pricing: Vendors shall provide pricing as required on the proposal price sheet. Alternate price structures may be submitted in addition to the pricing requested. FLVS reserves the right to reject proposals that do not comply with the information requested on the proposal price sheet.

2.0 EVALUATION OF RESPONSES

Responses shall be reviewed and evaluated by the Proposal Evaluation Committee as described herein.

2.1 Proposal Evaluation Committee (PEC)

2.1.1 A Proposal Evaluation Committee shall convene, review, evaluate and rank all valid responses submitted based on the evaluation criteria. The PEC committee shall consist of FLVS staff members who are voting members and non-voting subject matter experts (SMEs). The non-voting members will be reviewing the proposals and reporting in their field of expertise to the committee.

2.1.2 The Proposal Evaluation Committee reserves the right to interview any, all or none of the Proposers that responded to the RFP and to require at the discretion of FLVS formal presentations with the key personnel who shall administer and be assigned to work on behalf of the contract before recommendation of award.

2.1.3 The Proposal Evaluation Committee reserves the right to conduct site visits of a Proposer’s facilities and/or of a current project they are managing.

2.1.4 Public Notice of Proposal Evaluation Committee meetings will be posted on FLVS Procurement Services website <https://flvs.net/about/procurement-opportunities/solicitations-open>

2.2 Evaluation Process

2.2.1 The selection process to evaluate the responses under this RFP shall be conducted in accordance with the evaluation procedure as described in this section. Accepted Responses shall be evaluated by the PEC comprised of FLVS staff. FLVS shall be the sole judge as to which response is best and, in ascertaining the best response, shall take into consideration the financial resources, reputation, fit of proposed solution, and experience in performing similar work, as generally described below. FLVS will use 1) Minimum Qualifications/Responsiveness Check and 2) a two-step process (written and oral steps).

2.2.2 FLVS shall generally follow the above shown process; in doing so, FLVS at its will, reserves, at a minimum, the following rights:

- a. The award shall be made to the Proposer that best meets FLVS needs. Every response shall be reviewed/evaluated in terms of its conformance to the RFP specifications;
- b. All responses properly completed and submitted shall be accepted by FLVS. However, FLVS reserves the right to reject any or all responses, reject any response that does not meet all mandatory requirements, or cancel this RFP according to its best interest;
- c. FLVS also reserves the right to waive minor irregularities in responses if that action is in the best interest of FLVS. If the Proposer is awarded the contract, such a waiver shall in no way modify the requirements stated in this RFP or excuse the Proposer from full compliance with the specifications stated in this RFP or resulting contract;
- d. FLVS reserves the right, before awarding the contract, to require Proposer to submit additional evidence of qualifications or any other information the District may deem necessary;
- e. FLVS reserves the right to further negotiate any response, including price, with the highest rated Proposer. If a contract cannot be reached with the highest rated Proposer, the District reserves the right to negotiate and recommend award to the next highest Proposer or subsequent Proposers until a contract is reached;
- f. FLVS shall not be under any requirement to complete the evaluation by any specific date and reserves the right to suspend or postpone the evaluation process would the need arise due to budget constraints, time constraints or other factors as directed by FLVS;
- g. FLVS, at its sole discretion may waive the requirement to have demonstrations or interviews and may determine an award based upon the steps defined.
- h. FLVS, at its sole judgment, will award or reject any or all responses as is in the best interest of FLVS and the decision shall be final.

2.3 EVALUATION STEPS

2.3.1 Response Opening: Response submittals shall be received and publicly opened. Only the names of Proposers will be read at this time.

2.3.2 Compliance: A preliminary evaluation by Procurement Services shall determine whether each received response is complete and compliant with the minimum qualifications and all other instructions and/or submittal requirements in the RFP. Any responses that are incomplete or that do not comply with the instructions and /or submittal terms and conditions may be rejected and excluded from further consideration or taken into consideration during the scoring. Vendor responses, which are compliant as determined solely by FLVS, are moved to Step 1 of the evaluation stage.

2.3.3 Step 1: In this stage, FLVS shall evaluate each written response based on the evaluation criteria listed in 3.0, using a 1-20 rating system multiplied by the weights assigned.

Step 1a: The proposal evaluation committee members will discuss all vendor responses, and each evaluation committee member will score the vendors individually. Additionally, the Procurement Representative will send each individual member an Evaluation Committee Rules form to sign as acknowledgment of the committee member's understanding of the requirements. The form specifies that "each member will conduct, and complete, an individual evaluation of each response." Each member of the PEC will first score each vendor's written response. The procurement representative will combine the weighted evaluation scores from each committee member to finalize total weighted scores for each vendor.

Step 1b: The procurement representative will combine the evaluation scores submitted by all PEC members and shall determine the highest scoring vendors based on the total evaluation scores received. FLVS reserves the right to determine the cutoff score and the number of responses that may advance to Step 2. Step 2 is optional at the sole discretion of FLVS. If FLVS determines that Step 2 is not required, award recommendation will be made based on the scores from Step 1.

2.3.4 Optional Step 2: In this stage, the finalists shall be notified by Procurement Services of the process for the demonstration and/or oral presentation based on interviews. Step 2 evaluation is a "fresh evaluation" with scores from Step 1 not being carried forward:

The finalists and their sub proposers shall be required to appear (face to face), in no particular order before the PEC for a system demonstration and/or oral presentation/interview of their response and detailed discussion of the elements of their response;

a. Procurement Services will assign the date for the on-site demonstrations and/or oral presentations based upon a random drawing of the responses advanced to Step 2;

b. The PEC may require the finalists to furnish additional information or respond to questions and/or clarifications prior to or at the oral demonstration/interview;

- c. The vendor's key team members should actively participate in the oral demonstration/presentations to the PEC. Members of the PEC may direct questions to specific members of the Vendor's team;
- d. FLVS reserves the right to invite additional subject matter experts from FLVS and/or its representatives to sit in and observe the oral demonstrations/presentations;
- e. Following the oral demonstrations/oral presentations, FLVS may require finalists to furnish additional information or respond to questions and/or clarifications that might be needed to finalize the PEC scoring;
- f. Using the evaluation criteria in Section 3.0, each member of the PEC will separately score each vendor's system demonstration/oral presentation using a 1-20 rating system multiplied by the weights assigned. The procurement representative will combine the evaluation scores submitted by all PEC members and shall determine the highest scoring vendors based on the total evaluation scores received to finalize point total from Step 2 and vendor ranking.
- g. Procurement Services will announce which responses will be advanced to negotiations.

2.3.5 Basis of Award: Recommended award shall be made to the highest ranked Vendor whose response is determined in writing to be the most advantageous, bringing "best value" to meet the criteria of FLVS. Following the selection and upon final negotiation of the contract terms and conditions with the top ranked Vendor, recommendation for contract award will be submitted to FLVS Board of Trustees (if total value is over \$100,000) or Procurement Director approval (if total value is under \$100,000).

2.3.6 FLVS reserves the right to negotiate price and contract terms and conditions with the most qualified firm(s) to provide the requested service.

2.3.7 Selection Criteria: This procurement will comply with applicable Board Policies, State Board Rules, and Florida Statutes. The selection of a firm may be made without discussion with Proposer(s) after responses are received. Therefore, responses should be submitted complete with all pertinent information.

- a. No Proposer shall have any rights against FLVS arising from such negotiations.
- b. There will be no interim briefing regarding the status of a particular response until the evaluation of all responses is complete.

2.4 EVALUATION CRITERIA

Criteria No.	Step 1: Main Criteria	Weight
1.	Qualifications, Experience of Team Members, Industry Experience and References	27%
2.	Ability to meet stated requirements	26%
3.	Samples and Work Portfolio	26%
4.	Price Proposal	20%
5.	Acceptance of Invoice Payments via FLVS Visa Purchasing Card	1%
	TOTAL	100%

Criteria No.	Step 2: Vendor Interview	Weight
1.	Strategy	30%
2.	Alignment to FLVS brand and target audiences	30%
3.	Creativity and Passion	30%
4.	Presentation Skills	10%
	TOTAL	100%

2.5 Schedule/Project Timeline

May 23, 2017 11:00 AM EST	Pre-Submittal Meeting
May 30, 2017 2:00 PM EST	Last Day to Request Additional Information or Clarification
June 13, 2017 2:00 PM EST	Response Due Date

June 20, 2017	Step 1 Evaluation Committee Meeting Tentative Date
June 27 2017	Step 2 Oral Interviews/Demonstration Committee Meeting Tentative Date
July 11, 2017	Negotiations Tentative Date
August 8, 2017	Award Date Tentative Date

3. RESPONSE SUBMISSION FORMAT AND INFORMATION THAT MUST BE SUBMITTED

3.1 In order to maintain comparability and consistency in review and evaluation of responses, all responses shall be organized as specified below. Avoid any elaborate promotional materials and provide only information that is required. All supporting materials should clearly reference the portion of the RFP to which they pertain. Please submit **one (1)** unbound original (clearly marked as such) and two exact duplicates for a total of three physical copies. **One electronic copy on USB flash drive is also required** for document management purposes. To create the electronic copy, scan the entire response and save it as one (1) pdf document. **Responses must be bound in a three ring** binder (with the exception of the unbound original). Responses not meeting the requirements below may be determined to be non-responsive, non-responsive responses will receive no further consideration.

- a. **Table of Contents:** Please clearly outline and identify the material and responses by tab and page number. Outline in sequential order the major areas of the response, including enclosures. Tabs should be used to separate each tabbed section. All pages must be consecutively numbered and correspond to the table of contents.
- b. **Tab 1 - Cover Letter and Compliance Information:** Provide a cover letter indicating your company's understanding of the requirements/scope of services of this specific response. The letter must be a brief formal letter from the Proposer that provides information regarding the company's interest in and ability to perform the requirements of this RFP. Clearly demonstrate your familiarity with the RFP. Unless specific exceptions are noted in the response to this package, all terms and conditions contained in the response to include the inclusive sample contract are considered to be accepted by the proposer. A person who is authorized to commit the Proposer's organization to perform the services included in the response must sign the letter. Please provide a list of all persons authorized to give presentations. Please provide all names, titles, addresses, telephone numbers (including facsimile numbers), and e-mail addresses. The prospective Proposer hereby certifies, by submission and signature of this letter, represents complete and unconditional acceptance of the requirements, terms and conditions of this solicitation and all appendices and any Addendum released hereto.

3.1.1 Include under this tab the following signed forms (An original form and signature is required. ***These forms must not be modified in any manner.***).

- | | |
|---|--|
| <ul style="list-style-type: none"> i. Vendor's Statement of Qualifications (Appendix A) iii. Statement of Affirmation and Intent (Appendix C) v. Addenda Form / Dispute Resolution Clause (Appendix E) vi. Drug Free Workplace Certification (Appendix G) | <ul style="list-style-type: none"> ii. Acknowledgement of Business Type (Appendix B) iv. Mutual Non-Disclosure Agreement (Appendix D) vii. Fair Labor Act / Public Crimes / Federal Debarment Certifications (Appendix F) viii. Public Records Act/Chapter 119 Requirements (Appendix H) ix. Insurance Certificate (See Section 6.18) |
|---|--|

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

- a. If the Proposer is a corporation, provide a copy of the certification from the Florida Secretary of State verifying Proposer's corporate status and good standing, and in the case of out-of-state corporation, evidence of authority to do business in Florida.
- b. Provide the Federal Employer Identification Number of the Proposer. In the case of a sole proprietorship or partnership, provide the Social Security numbers for all owners/partners.
- c. Principals: The Proposer must provide the name and address of all persons or entities serving or intending to serve as principals in the Proposer's firm.
- d. License Sanctions: List any regulatory or license agency sanctions. The Board may perform a background check on Proposer with all state and regulatory agencies.
- e. Drug-Free Workplace: If applicable, provide a statement concerning the Proposer's status as a Drug-Free Work Place. (Reference Appendix G) Responses received which are equal with respect to price, quality, and service and that have provided proper certification that a business has implemented a drug-free workplace program, shall be given preference in the award process.
- f. Conflict of Interest Statement: See "Statement of Affirmation and Intent" (Refer to Appendix C) included in this package

3.2 **Tab 2 – Qualifications, Experience of Team Members and References:** Summarize the qualifications of the Proposer. Where the project team includes sub-contractors or sub-consultants, qualifications of the proposed sub-contractors or sub-consultants shall also be provided. Past working relationships on similar projects should be indicated. Provide the credentials of the individual(s) from your company that will administer the day-to-day operations of FLVS contract.

3.2.1 In order to be considered for award, Proposer must demonstrate financial stability to FLVS. Proposer must provide at a minimum one of the following:

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

3.2.2 Background - Provide a profile of your organization:

- a. Provide a core contact with name, title, email, address, phone, and fax
- b. Where are your corporate offices located?
- c. Do you have any offices in Central Florida, Orlando, and any contiguous county to Orange County?
- d. Please list the number of years your company has been in operation.
- e. Describe your support and quality assurance resources.
- f. Company website
- g. Number of clients: Active and Inactive.
- h. Please list the number of Active clients by year, within the past five (5) years. List the number of clients who are no longer using your services by year, within the past five (5) years.

3.2.3 Experience - Describe your company's experience with the services specified. Provide details/examples as well as quantifiable results and objectives achieved as a partner with specific clients (up to 5 client case studies).

- a. Describe what strategic advantages your organization brings to the relationship of our organization?
 - i. Skills
 - ii. Strengths
- b. Describe awards won or achieved related to your services
 - i. Dates

- c. Describe how your organization is organized and staffed to support the required services in the scope of work.
- d. Identify key personnel and provide biographical information pertaining to their backgrounds, expertise and job descriptions. Provide an organizational chart showing a total organizational headcount noting areas of expertise.
- e. How would this team be organized to service our organization?
- f. Does your company have dedicated resources with a knowledge base around the educational sector?
 - i. Who
 - ii. Biographies
 - iii. Job Description

3.2.4 References: Please provide three client (3) references and two (2) service provider references (preferable educational or similar references). Proposers shall be required to sign the forms in Section 10 giving FLVS authorization to contact and check previous performance on projects.

Include name of customer/provider, address, contact name, telephone numbers (including facsimile number), and email address. Please include only references within the previous thirty-six (36) months. FLVS will contact these references during the evaluation process. Non-responsive references may reflect negatively on the vendor

Each Proposer should also include under this tab, in tabular form, summary information for all contracts of similar size and scope performed by the Proposer, or team, within the past five (5) years. Information provided for each job shall include:

- a. Contract/Project name/Description
- b. Agency/department/office for which performed
- c. Dates of the contract
- d. Owner's contact/project manager or other representative
- e. Description of role and level of involvement
- f. Contact person
- g. Dollar value of the contract
- h. Present status of the engagement
- i. The firm's key professionals involved on the engagement and who of that staff would be assigned to the program covered by this RFP.

FLVS reserves the right to contact any and all references and to obtain, without limitation, information on the Proposer's performance on the listed jobs.

3.3 **Tab 3 Ability to Meet Stated Requirements**

- 3.3.1
- a. For the list of requirements provided in Section 8 (including all subsections), vendor is responsible for stating whether each numbered requirement can be met by responding with a yes or no. All requirements with a “yes” response must be included in the price proposal in Section 9.
 - b. Clearly indicate any exceptions to the scope of services of the RFP or alternatives for FLVS to consider. Exceptions and Alternatives must be listed using the form provided in Section 8.7 and 8.8.
 - c. A description of each additional deliverable not listed in the Requirements Section should be provided in the following format. Please use the following definitions:
 - Number: Number each deliverable.
 - Deliverable Name: Name of Deliverable.
 - Description/Objective: A description of the deliverable and the expected outcomes.
 - Outline: An outline of the deliverable.
 - Assumptions: A list of any assumptions related to the deliverable.
 - Additional Information: Any additional information requested and/or relevant to the understanding of the deliverable content that is not captured.
 - d. Include a list of software and systems needed to execute the work proposed.
 - f. Describe your approach to customer support. Include your plans for risk mitigation and escalation process.

3.4 **Tab 4: Work Portfolio and Samples**

Respondents shall include in their response a work portfolio with samples of work demonstrating proven experience, knowledge and expertise supporting the requirements listed in the Scope of Service (Section 8).

- a. Portfolio shall include up to five samples of campaigns with detailed case studies that define the original requirement and how it was addressed including description of realized success. Samples shall include at least one example of a digital campaign, a media campaign, and a broadcast campaign. Experience within the educational sector is desirable.

1. Portfolio samples may consist of digital and hardcopies of materials. Digital samples to be provided via URL within submission.

2. Portfolio should present samples relevant to this requirement that demonstrate similar work experience.

3. Portfolio presented should represent quality and content consistent with final deliverables.

4. All samples must be clearly labeled identifying how they respond to specified requirements as indicated.

5. Samples should demonstrate respondent's ability to deliver quality, creativity and level of expert knowledge desired.

3.5 **Tab 5 – Cost Proposal**

3.5.1 Proposers shall submit their cost according to the format provided in Section 9- Price Proposal. Completion of the Price Proposal form is required. Alternative pricing may be offered in addition (not as a replacement) to the pricing structure requested. Do not cite price anywhere else in the submission.

3.6.2 The District reserves the right to contact Proposers on price and scope clarification at any time throughout the selection process and negotiation process.

3.6.3 All work will be performed remotely at Respondent appointed facilities. The Respondent is responsible for providing appropriate work environment including high speed internet connectivity to appointed staff for the duration of this project. Respondent pricing shall include any and all travel costs associated with face to face meetings at FLVS offices.

3.6.6 The cost response shall have two distinct components:

a. The first shall consist of the agency upcharge percentage for all respondent profit above cost of advertising activity. Respondent shall be responsible for providing supporting documentation proving upcharge above cost including quotes and or invoices.

b. The second component, to be used for additional services, shall be individual projects based on the hourly rates as provided in Section 9.

3.7 **Tab 7 – Acceptance of Invoice Payments via FLVS Visa Purchasing Card**

State whether or not the Proposer will accept 100% payments via the FLVS Visa Purchasing Card. No additional charges, fees or price increases may be assessed by the vendor for the use of Procurement/Charge/Bank cards during the life of any award resulting from this contract, and any applicable extensions.

3.8 **Vendor Interview**

Respondents notified to advance to the vendor interview phase shall present live demonstrations to the FLVS PEC. During this session, respondents shall provide FLVS with their "Agency Pitch." Respondent presentation shall include a general overview with high-level milestones defining initiatives and suggested approaches for delivering the FLVS marketing and communications strategy. Include a sample outline of the type of services that are best suited to support the FLVS brand. Spec work is not necessary.

4. SUBMISSION REQUIREMENTS:

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

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

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

Each Response envelope/box shall be sealed and identified as specified below:

PLEASE FILL OUT THE LABEL BELOW AND ATTACH IT TO YOUR RFP REPLY PACKAGE(S).

Cut out label and tape to outer sealed envelope(s) or package(s).

DO NOT OPEN - SEALED RESPONSE - DO NOT OPEN	
RFP NO.: RFP01-178581B01-MKTSVC-XXXXXX	RFP Title: Marketing & Creative Services
TO BE OPENED: June 13, 2017	
<u>LATE RESPONSE WILL NOT BE ACCEPTED</u>	
<u>FROM</u>	
Name of Firm:	
Contact Name:	Email Address:
Telephone No.:	Fax No.:
Deliver To:	Florida Virtual School Procurement Services Attn: Karen Stolarenko, Procurement Analyst 2145 Metrocenter Boulevard, Suite 100 Orlando, FL 32835

4.1 **Non Submittal Response Form** - If your company is not submitting a response to this solicitation, please complete and email this form prior to the due date established in the RFP document. If you are submitting this form, then only this form needs to be returned, please do not return the entire RFP package. This information will assist Procurement Services in the preparation of future solicitations.

RFP NO.: RFP01-178185B01-MKTSVC-XXXXX **Attention:** Karen Stolarenko
RFP NAME: Marketing & Creative Services **Email:** kstolarenko@flvs.net

Company Name: _____
Contact Person Name & Title: _____
Address: _____
Telephone: _____ **Fax:** _____
Email Address: _____

Please check reason for a “no bid.”

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

Print Name: _____
Signature: _____ **Date:** _____

5 INSTRUCTIONS TO PROPOSER

- 5.1 **Upon the issuance of this RFP, all contact with FLVS must be made through the procurement representative named on the first page.** The Proposer must limit communication with the designated contact to the means specified in this document. Other employees and representatives of FLVS and the participating agencies are instructed not to answer questions regarding the RFP or otherwise discuss the contents of the RFP with the Proposer or its representatives. Any contacts made with other employees and representatives of FLVS will be reported and forwarded to Procurement. Proposer shall not, under the penalty of law, offer any gratuities, favors or anything of monetary value to any officer or employee of FLVS in connection with this competitive procurement.
- 5.2 Proposer to this Response or persons acting on their behalf are specifically requested not to contact Board of Trustees, members, staff, or Committee Members during the course of the Response and Selection process. All procedural matters shall be directed to Procurement/Contract Specialist. Evaluation Committee members or other School employees shall not be contacted or approached by representatives of any potential Proposer to this RFP. Contact or communication initiated by any responding firm may result in rejection of the Response.
- 5.3 Upon award recommendation or thirty (30) days after opening, whichever is earlier, any material submitted in response to this RFP will become a public record and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (Public Records Law). Proposers must claim the applicable exemptions to disclosure provided by law, in their response to the RFP, by identifying materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. FLVS reserves the right to make any final determination of the applicability of the Public Records Law.
- 5.4 Posting Of Tabulations/Recommendation. RFP tabulations with recommended awards will be posted for review by interested parties. Visit <http://www.demandstar.com> or <http://www.flvs.net/areas/contactus/Pages/Procurement%20Opportunities/RFPsListing.aspx> for bid/response links and in the Procurement Services Department, at 2145 Metrocenter Boulevard, Suite 100, Orlando, FL 32835. Results will remain posted for a period of 72 hours. Failure to file a Notice of Intent to Protest within the time prescribed in Section 120.57(3) b, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. If the tabulation with the recommendation of award is not posted by said date and time, Procurement Services will endeavor to post a "Notice of Delay of Posting" to inform all Proposer of the delay and anticipated posting date and time.
- NOTE:** If you download a copy of this response from Demandstar you will be notified by Demandstar (as you listed, email or fax) of postings during the life of this solicitation. **You will not be notified if you download a copy of this response from FLVS.net.**
- 5.5 Bid Protests: Any person who believes they are adversely affected by any specification in this Bid or RFP or any decision or intended decision concerning this Bid or RFP and who wishes to protest such specification, decision, or intended decision shall file a Notice of Intent to Protest in accordance with section 120.57(3), Florida Statutes. A formal written protest must be accompanied by a bond payable to FLVS in an amount equal to one percent (1%) of the total value of the proposed contract. Security shall be in the form of a bond, a cashier's check, or money order. Failure to file a protest within the time prescribed

in section 120.57(3), Florida Statutes, or failure to post the bond or other security within the time frame set forth in section 287.042(2)(c), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

- 5.6 Any Proposer in doubt as to the true meaning of any part of this RFP or related documents may submit a written request for clarification to Karen Stolarenko at the email address kstolarenko@flvs.net, by 2:00 PM EST May 30, 2017. Any interpretation to a Proposer shall be made only by amendment duly issued. All Amendments will be posted and disseminated on the following web-sites:

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

5.6.1 Questions must be received before 2:00 PM **Eastern Standard Time** on May 30, 2017. Questions not received by this date and time will not be considered.

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

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

5.6.3 All questions must be in writing and emailed to the Procurement Representative named below. The request must contain the Proposer's name, address, telephone/fax numbers, and email address. After thoroughly reading this RFP, Proposers may direct questions, to:

Karen Stolarenko

Procurement Analyst

kstolarenko@flvs.net

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

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

- 5.9 Three response copies (two copies – 1 original shall be unbound) are to be submitted in sealed envelopes (use the label provided in section 4), which bear the name, address, and telephone number of the Proposer.
- 5.10 FLVS will receive sealed responses until the date and time indicated on this response cover page. Responses must be delivered to the Procurement Services Office at the stated address and will be recorded at the stated date/time. Responses must be delivered in sealed envelopes, clearly marked on the outside as to response name, response number, and opening date. **Responses received in unidentifiable envelopes are sent at the Proposer's risk. Responses received after the date/time indicated on the response cover will be date/time stamped received and returned to the Proposer unopened.** It will be the Proposer's responsibility to get the response to the correct location and on time. Please note that the official clock, for the purpose of receiving responses, is located in the Procurement Services Division.
- 5.11 Purchase Order: The award of the response shall not constitute an order. Before any shipments are made or services rendered, Proposer must receive a purchase order. Shipments shall be made as specified on the purchase order, conforming to the response form, specifications, and general instructions.

6 GENERAL TERMS AND CONDITIONS

- 6.1 FLVS may, at its sole and absolute discretion, reject any and all, or parts of any and all responses; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP, or in the responses received as a result of this RFP. FLVS also reserves the right to request clarification of information from any Proposer.
- 6.2 All expenses involved with the preparation and submission of responses to FLVS, or any work performed in connection therewith, shall be borne by the Proposer. No payment will be made for any responses received, any other effort required of or made, or expenses incurred by the Proposer.
- 6.3 FLVS may require the Proposer to give oral presentations in support of their response or to exhibit capabilities to support their response. Proposers will be notified of the date(s) and time(s) of any such oral presentations, if needed.
- 6.4 FLVS has implemented a Purchasing Card Program to streamline our procurement process.
 - 6.4.1 By making purchases with the Visa Purchasing Card, we can more effectively control our procurement activities and achieve a significant cost savings over our current paper purchasing/payment system. Our Awardees also achieve cost saving results by accepting our Purchasing Card.
 - 6.4.2 FLVS may, at their sole option, elect to make payment by use of a Purchasing/Bank/Charge card. No additional charges, fees or price increases may be assessed by the vendor for the use of Procurement/Charge/Bank cards during the life of any award resulting from this contract, and any applicable extensions.
- 6.5 This RFP and the related responses of the selected Proposer(s) will constitute the basis of the formal contract between the Proposer(s) and FLVS. No modification of this RFP, except by addendum issued by FLVS, shall be binding on FLVS.
- 6.6 It is understood and agreed between the parties hereto that FLVS shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this RFP. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this RFP, FLVS shall immediately notify Awardee(s) of such occurrence and this RFP shall terminate on the last day of the fiscal year for which an appropriation(s) was (were) received without penalty or expense to FLVS of any kind whatsoever.
- 6.7 The awards made pursuant to this RFP are subject to the provisions of Chapter 112, Florida Statutes. All Proposers must disclose, with their response, the name of any officer, director, or agent who is also an employee of FLVS. Further, all Proposers must disclose the name of any FLVS employee who owns directly, or indirectly, an interest of five percent (5%) or more in the Proposer or any of its branches/subsidiaries.
- 6.8 Purchasing Agreements with Other Government Agencies. All Bidders submitting a response to this Invitation to Bid agree that such response also constitutes a bid to all political subdivisions under the same conditions, for the same prices and the same effective period as this bid, should the Bidder feel it is in their best interest to do so.

This agreement in no way restricts or interferes with the right of any political subdivision to rebid any or all items.

- 6.9 Proposers, their agents, and/or associates are subject to the provisions of the Florida Sunshine Law, Florida Statute 286.011.
- 6.10 There shall be no discrimination permitted by any party under this engagement as to race, sex, color, creed, national origin, or handicap.
- 6.11 The Procurement Director may terminate this contract in whole or in part when it is in the best interest of FLVS. Notification of termination must be in writing and issued by the Procurement Director or designee. This action will be publicly posted as described above.
- 6.12 Should any Proposer fail to enter into a contract with FLVS, on the basis of the submitted response by said Proposer, the Proposer acknowledges that Proposer shall be liable to FLVS for any lost revenue.
- 6.13 Venue for any and all legal action regarding or arising out of the transactions covered herein shall be solely in FLVS Court in and for Orange County, State of Florida. The laws of the State of Florida shall govern this transaction.
- 6.14 Attached as Appendix I, is the most current version of FLVS' standard contract. By submitting a response to this RFP, submitters acknowledge and agree that they have reviewed this standard form and have no objection to it. Further, if selected by FLVS, Submitters acknowledge and agree that they will execute this standard form contract, subject to FLVS' right to make revisions and modifications thereto prior to execution, where FLVS has determined, in its sole discretion that such revisions or modifications are in FLVS' best interest.
- 6.15 This contract or agreement is personal to the parties herein and may not be assigned, in whole or in part, by the Proposer without prior written consent of the School. The Proposer herein shall not assign payments under this contract or agreement without the prior written consent of the School.
- 6.16 With the consent and agreement of the Awardee(s), purchases may be made under this response by other school boards and governmental agencies Services are to be furnished in accordance with the Contract of said product(s) and/or service(s) resulting from this Response. Such purchases shall be governed by the same terms and conditions as stated herein. It is hereby made a part of this RFP that the submission of any response, in response to this advertised request, shall constitute a response made under the same conditions, for the same contract price, and for the same effective period as this response to all public entities if they so request.
- 6.17 All accounting and invoicing correspondence must reference FLVS purchase order number. Invoicing for rental equipment or "tools of trade" will not be allowed. Rental equipment for special circumstances must be pre-approved by FLVS. Invoices and requests for payment must be accompanied by detailed cost sheets for each project denoting equipment, labor, disposal fees, etc. These items must be received by FLVS consultant/representative at least ten (10) working days before the deadline for submission of Awardee's request for payment dates.

- 6.18 Insurance Requirements: Awardee(s) shall obtain and maintain in full force prior to performance and effect throughout the initial Term and any Renewal Term no less than 5 years past the completion of the project with a reputable insurance carrier qualified to do business in the state or states in which the Premises are located and having a rating of not less than "A" from A.M. Best & Company.
- 6.18.1 All policies of insurance shall be written on a per occurrence basis. All such insurance policies shall, to the extent permitted under applicable law, provide that (a) the policies shall not be cancelled nor shall any material change be made therein without at least ten (10) days prior written notice to Florida Virtual School (FLVS) and (b) FLVS is to be named as an additional insured party with respect to Proposer activities.
- 6.18.2 General Liability Insurance of not less than One Million (\$1,000,000.00) per occurrence and Two Million (\$2,000,000.00) General Aggregate for bodily injury, property damage liability, personal injury, advertising liability, and shall include errors and omissions coverage. The General Liability policy should be on CGL 0001 (12/04) or equivalent form. Insurance shall be primary and non-contributory to any other insurance of the certificate holder and shall name the certificate holder, owners and any other required by written contract or an agreement as additional insured.
- 6.18.2.1 Policy should be endorsed with a "per project aggregate". All coverage's should include contingent liability and contingent property damage liability. If coverage is written on a Claims made basis the retroactive and continuity dates should be at least the first day services begin with FLVS. Policy should include an endorsement waiving all rights to subrogate against FLVS.
- 6.18.2.2 The above policies for General Liability insurance must be so written as to include Contingent Liability and Contingent Property Damage Insurance to protect the contract against claims arising from the operation of subcontractors.
- 6.18.3 Worker's Compensation Insurance: The Awardee(s) shall maintain during the life of this Contract, Worker's Compensation Insurance in accordance with Florida Statute 440. Contractors shall require all subcontractors to maintain such insurance during the life of this Contract Employer's Liability Insurance: The Contractor shall maintain, Employer's Liability Insurance shall be in the amounts not less than Five Hundred Thousand Dollars (\$500,000.00) each accident for bodily injury by accident, Five Hundred Thousand Dollars (\$500,000.00) each employee for bodily injury by disease, and Five Hundred Thousand Dollars (\$500,000.00) policy limit for bodily injury by disease.
- 6.18.4 Automobile Liability Insurance: Automobile Liability Insurance shall be maintained, by Vendor as to ownership, maintenance, and use, including loading and unloading, of all owned, non-owned, leased or hired vehicles with limits of not less than One Million Dollars (\$1,000,000.00) combined single limit each accident for bodily injury & property damage liability.

- 6.18.5 Professional Liability and Cyber Liability including: Technology Errors and Omissions, Telecommunications Errors and Omission, or Multimedia Professional Liability whichever is applicable not less than One Million Dollars (\$1,000,000.00), and Network Security Liability, Privacy Liability, Crisis Management, Cyber Extortion, and Media Liability not less than One Million Dollars (\$1,000,000.00).
- 6.19 Legal Requirements: It shall be the responsibility of the Awardee(s) to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein which may apply. Lack of knowledge by the Awardee(s) will in no way be a cause for relief from responsibility. Awardee(s) doing business with the School are prohibited from discriminating against any employee, applicant, or client because of race, creed, color, national origin, sex or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.
- 6.20 After notification of award, the Awardee(s) shall indemnify and hold harmless FLVS as specified in Florida Statutes Section 725.06. Nothing in the award, resulting agreement, contract, or purchase order shall be deemed to affect the rights, privileges and immunities of FLVS as set forth in Florida Statutes.
- 6.20.1 Successful Proposer shall, in addition to any other obligation to indemnify Florida Virtual School and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;
- 6.20.1.1 Bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
- 6.20.1.2 Violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or Liens, claims or actions made by the contractor or any subcontractor or other party performing the work.
- 6.20.1.3 The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.
- 6.20.1.4 Any costs or expenses, including attorney's fees, incurred by Florida Virtual School to enforce this agreement shall be borne by the Contractor and venue shall be in Orange County.
- 6.21 Patents and Royalties. The Proposer, without exception shall indemnify and hold harmless the School and its employees from liability of any nature or kind including cost and

expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by Florida Virtual School. If the Proposer uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work. In addition, FLVS shall maintain all rights to the written documentation, electronic media and other materials provided by the Contractor in response to this Response.

6.22 All information submitted in response to this request shall be submitted in compliance with Florida Statutes Chapter 119.07 Public Records and 812-081 Trade Secrets. All information submitted as "Trade Secret" shall be submitted in a separate envelope and so labeled. If challenged, the Proposer who submits the "Trade Secret" information shall bear all costs associated with defending their position.

6.23 Financial Terms and Conditions.

6.23.1 Payment

Vendor will provide all Services, as defined in the RFP. All travel and related expenses are included. Payment shall be made as follows: work shall be invoiced on a monthly basis and per project basis.

6.23.2 Conditions to Payment

Payment to Vendor of the amounts due shall be conditioned strictly upon satisfaction of the conditions for such payment set forth in the Pricing Schedule under the Contract and specifically upon the successful and timely completion of the services. FLVS reserves the right to determine the acceptance process which may include the approval and release of funds.

6.23.3 Scope of Work (SOW)

In the event that FLVS shall issue a SOW (Scope of Work) for Services, under this Contract, District shall pay to vendor an amount determined by the hourly rates under the Pricing Schedule, not to exceed the maximum cumulative amount for a Scope of Work under this Contract. Invoices for each SOW shall itemize the time and materials expended on the particular SOW.

6.23.4 Payment Terms Our Payment Clause

- A. the FLVS will remit full payment on all undisputed invoices within forty- five (45) days from receipt by the appropriate person(s) (to be designated at time of contract) of the invoice(s) or receipt of all products or services ordered.
- B. By submitting a Proposal to the FLVS, the Vendor expressly agrees that if awarded a contract, FLVS may withhold from any payment, monies owed by the Vendor to FLVS for any legal obligation between the Vendor and FLVS.

6.23.5 Form of Invoicing

Invoices shall itemize services, dates, and deliverables consistent with the terms of the Contract.

6.23.6 Performance Bond – N/A

6.23.7 Please state on the Response Price Sheet the Terms and Conditions you will accept for a payment discount. (i.e.: 2% net 45 days, upon receipt of invoice). FLVS shall pay to Provider the fees for services as per State Statute Net 45 days of receipt of approved invoice. The School shall not pay Federal Excise and State taxes on direct purchases of tangible personal property. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvement of School Board-owned real property as defined in Chapter 192 of the Florida Statutes. The tax exemption number is 85-8013320819C-8.

6.24 FLVS will monitor and enforce compliance by all Awardees and sub-contractors that provide services and/or products to FLVS.

6.24.1 It is the intent of FLVS that all Awardees and sub-contractors supplying services and/or products shall at no time cause unsafe conditions or acts that could have any impact on the safety and health of students, employees, or visitors to FLVS operations. The Awardee(s) may be required to supply a written copy of their Safety Program/Manual for review after contract award. Periodic review of the Awardee's safety manual and operations may be conducted. All Awardees and their employees, including sub-contractors, performing work under the terms of this contract will follow the best safe working practices at all times, as well as comply with all Federal, State, Local, and FLVS safety policies and procedures. This includes the operation of vehicles and equipment on FLVS owned property. Any accidents, injuries, or incidents occurring on FLVS property shall be immediately reported to FLVS Facilities Office.

6.24.2 In compliance with Chapter 442, Florida Statutes, any item delivered or used when providing services under this contract must have a published Material Safety Data Sheet (MSDS). Each MSDS must be in English (Spanish may be required by FLVS) and include information regarding the specific chemical identity of the hazardous chemical(s) involved and the common names. Information must be provided on the physical and chemical characteristics of the hazardous chemical; known acute and chronic health effects and related health information; exposure limits; whether the chemical is considered to be a carcinogen by NTP, IARC or OSHA; emergency first aid procedures; and the identification of the organization responsible for preparing the MSDS.

6.24.3 The Awardee(s) performing work for FLVS is responsible to provide written notification and Material Safety Data Sheets (MSDS) to FLVS Facilities Office for any hazardous material that may be used. FLVS defines Hazardous Material as "any material or substance for which there is sufficient data to indicate a reasonable risk to physical and/or environmental health". These substances are classified as poisonous, toxic, corrosive and flammable, explosive, radioactive, or otherwise have any warning on the product label.

- 6.24.3.1 FLVS Facilities Office must approve all hazardous materials used by the Awardee(s) prior to use.
 - 6.24.3.2 All requests for approval of product shall be directed to FLVS Facilities Office at 2145 Metrocenter Boulevard Suite 100, Orlando, FL 32835.
 - 6.24.3.3 Current, legible copies of Material Safety Data Sheets (MSDS) will be used to evaluate all products. This information must be provided at least five (5) working days prior to use and must include the Awardee's safety plan (precautions needed by the Awardee's employees).
 - 6.24.3.4 After review by FLVS Safety Office, the Awardee(s) of the MSDS will be provided a copy of the MSDS stamped approved, with or without additional restrictions, or disapproved.
 - 6.24.3.5 The Awardee(s) using the product must follow any identified restrictions and must maintain a copy of the approved MSDS at the job location.
 - 6.24.3.6 Any product used in FLVS shall be used in accordance with the manufacturer's instructions and applicable FLVS Policies.
 - 6.24.3.7 Certain products will not be authorized for use in FLVS in order to prevent any incidence of exposure to students or employees. Further, stringent restrictions may be applied to the use of certain products to reduce or eliminate the incidence of exposure.
 - 6.24.3.8 Products approved for use by FLVS employees does not constitute an automatic approval for use by Awardee(s). All products used by Awardees must be specifically approved for each job within FLVS.
 - 6.24.3.9 FLVS employees will not use products approved for use by Awardees unless a specific approved MSDS has been provided to the supervisor and/or is maintained in the worksite MSDS Book.
 - 6.24.3.10 Use of Hazardous Materials at sites where no students or FLVS employees are assigned does not have to be approved provided the materials are not within 250 feet of sites with students or employees. All Federal, State, and Local regulations shall apply.
 - 6.24.3.11 Awardees are responsible to remove all products used on projects immediately upon completion. Products left for FLVS use will be listed on a manifest indicating type of container, amount, and the location of the product. FLVS employee that originated the service or contract shall sign the manifest and send to FLVS Safety Office.
- 6.24.4 The Awardee(s) and their employees, including sub-contractors, performing work under the terms of this contract will follow the best environmental working practices at all times. The Awardee(s) shall not cause any unsafe conditions or acts that could have an impact on the safety and health of students, employees, or visitors to FLVS operations, as well as comply with all Federal, State, Local, and FLVS environmental policies and procedures. The Awardee(s) may be required to supply a written copy of their Environmental Program/Manual for

review after contract award. Periodic review of the Awardee's environmental manual and operations may be conducted. Awardees and sub-contractors will be responsible for removal and cleanup of all contamination (or potential contamination) when it occurs or is identified by FLVS Safety Office. All incidents shall be immediately reported to FLVS Safety Office.

7. SPECIAL PROVISIONS

- 7.1 **Contract Term/Option to Renew:** The initial term of the contract shall be for a five year period following Board approval.
- 7.2 This contract may be renewed for two additional two year periods provided all terms and conditions remain unchanged and in full force and effect. The option to renew, if exercised, will be executed in the form of an amendment. This option to renew requires the mutual agreement of both parties. Refusal by either party to exercise this option to renew will require this contract to expire on the original or mutually agreed date.
- 7.3 It is understood and agreed that this contract may be renewed under the same terms, conditions, and specifications governing the original contract, and any request for a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.
- 7.4 FLVS, at its sole discretion, may exercise options to extend the contract for up to two additional two-year periods, based upon funding availability and by mutual written consent of both parties. Respondent understands that any rate increases must be requested in writing with supporting documentation, approved by FLVS, and shall not exceed the average CPI for All Urban Consumers U.S. City Average for the renewal periods.

7.4.1 PRICE INCREASE

After the initial 5-year period, FLVS may consider a price increase if the following conditions occur:

- a. There is a verifiable cost increase to the awarded vendor
 - b. The awarded vendor submits to FLVS, in writing, notification of price increases with all supporting documentation.
 - c. The price increase shall be based on a reasonable percentage increase in product cost (not to exceed 5%) acceptable to FLVS.
 - d. The awarded vendor shall submit the above mentioned information to FLVS not less than 120 days prior to the effective date of the price increase. When the awarded vendor complies with all of the above mentioned conditions, FLVS shall reserve the sole right to determine if it is in the best interest of FLVS to adjust the pricing of the product proposal, in conjunction with the awarded vendor's effective date of price increase.
- 7.5 **Contract Termination:** FLVS shall have the right at any and all times to terminate this agreement, with or without cause, upon written notice of such termination provided not less than ninety (90) days prior to the date that such termination is to be effective, or with such lesser notice as FLVS may deem appropriate under the circumstances. Such right to terminate this contract without cause is hereby reserved by and to FLVS. In the event FLVS shall elect to terminate this contract without cause, FLVS shall compensate the Proposer for all work and services provided or supplied prior to the date of termination. In the event that an advance notice of termination is given, the Awardee(s) agree to abide and perform all covenants and provisions of this contract until the date of the termination specified in the written notice of termination. The Awardee(s) shall have no further rights, and FLVS shall have no further obligation to the Awardee(s), subsequent to the date of termination of this contract as specified in the written notice.

- 7.6 **Minimum Qualifications/Experience:** The Awardee(s) shall maintain a current business license. The Awardee(s) shall keep current all licenses and permits, whether Municipal, County, State, or Federal, required for the performance of its obligations and functions, hereunder, and shall pay promptly when due all such fees. Awardee(s) shall provide documentation of applicable license, certification, and/or commercial experience involving the services described herein. FLVS reserves the right to request documentation at any time during the contract period.
- 7.6.1 Proposer(s) shall include a copy of all applicable licensing with their response.
- 7.6.2 Inspection of Proposer's Facilities: FLVS reserves the right to inspect the Proposer's facilities and vehicles prior to awarding this contract.
- 7.6.3 It shall be the sole responsibility of the Awardee(s) performing services for this contract to safeguard their own materials, tools, and equipment. FLVS shall not assume any responsibility for vandalism and/or theft of materials, tools, and/or equipment.
- 7.7 **Awardee(s) Personnel:** Awardee's staff members are to present a professional appearance. Personnel shall be neat, clean, well groomed, properly uniformed, and conduct themselves in a respectable and courteous manner while performing duties and while at any FLVS facility.
- 7.7.1 Qualifications of new people working under this contract will be submitted to FLVS, in writing, for approval prior to them conducting any service under this contract. Submit a list of all employees who will be working under the current contract, any intention for additional personnel, and back-up personnel for each function.
- 7.7.2 Effective September 1, 2005, as per Section 1012.465 of the Florida State Statutes all Florida education agencies and Contractual personnel must be in compliance with the Jessica Lunsford Act.
- The term "contractor" means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for FLVS or a school, but who is not otherwise considered an employee of the FLVS. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.
- 7.7.3 The Technical Assistance paper for the Jessica Lunsford Act can be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-3151/k12%2005-107a>.
- 7.8 **Public Entity Crimes.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount

provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

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

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

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

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

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

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

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

7.11 **FLVS Facility Security:** All personnel must coordinate with the facility's front office or security personnel. Awardee's employees must be properly identified and must sign in and sign out when working or making deliveries during operational hours. All personnel must remain in the assigned work area.

7.12 **Marketing Agreement/Use of Product: Trademark License.** Neither party shall without the other party's written consent and approval: (i) permit usage of corporate logos, names and trademarks in marketing materials, provided such usage shall be subject to a limited license and shall be in conformance with such party's logo usage and trademark guidelines; (ii) at its own expense and in its sole discretion, furnish to the other party reasonable quantities of marketing

collateral and other sales promotion materials upon request; (iii) list the other party as an Partner on their website; and (iv) issue with the other party a joint press release announcing formation of the referral relationship between the parties, provided, however, that neither party shall issue any press release regarding the other party without the other party's prior written consent.

8. SCOPE OF WORK

8.1 SCOPE OF SERVICES: Florida Virtual School (FLVS) is soliciting proposals for a qualified Marketing and Creative Services provider capable of delivering strategic and creative solutions that embrace the FLVS philosophy and business model. Respondents must possess the ability to demonstrate experience and expertise necessary to support the detailed requirements specified herein. Services required involve but are not limited to campaign planning, media negotiation and buying, media placement, development of advertising creative for campaign initiatives, evaluation of return on investment (ROI) of advertising and other such services required by FLVS. All delivered content shall be subject to FLVS review and acceptance.

Specifications

- No spec work is required
- Respondent shall be accessible during FLVS business hours of operation
- Experience within the Educational sector is desirable
- Respondent proposals shall demonstrate expertise, knowledge, experience and available resources to satisfy all stated requirements.

Requirements

Respondent must be able to provide all below services to be eligible for RFP award. Responding with a Yes indicates respondent's ability to meet or exceed each line item requested. All items responded to with a Yes shall be included within the respondent's pricing.

8.2. General Requirements

Req #	General Requirements	Shall Meet Requirement Yes or No?
8.2.1.	All content delivered shall be sole property of FLVS in perpetuity with the exception of talent or licensing requirements.	
8.2.2.	Respondent shall be required to meet Jessica Lunsford compliance for any individuals who have direct contact with FLVS students.	
8.2.3.	Within 50 miles of the VLC at 2145 Metrocenter Blvd., Orlando, FL 32835 is required in support of face-to-face meetings for development and collaboration.	
8.2.4.	Respondent shall provide case studies of campaigns demonstrating measurable results.	
8.2.5.	Respondent is licensed to conduct business in the State of Florida.	
8.2.6.	Respondent has the expertise and knowledge of business strategies and the ability to dialogue, partner, and present solutions.	
8.2.7.	Respondent shall provide a dedicated account executive to manage FLVS initiatives and serve as a central point of contact.	
8.2.8.	Respondent shall communicate with FLVS team via face-to-face meetings, telephone, email, video conference, and/or text.	
8.2.9.	Respondent shall meet established campaign and project deadlines.	

8.3. Digital Advertising Requirements

Req #	Digital Advertising Requirements	Shall Meet Requirement Yes or No?
8.3.1.	Respondent has proven experience and resources to provide search engine marketing campaign strategy, creation, monthly reporting, and monitoring.	
8.3.2.	Respondent has proven experience and resources to provide social media advertising, campaign strategy, creative, mid and end campaign reporting, and monitoring.	
8.3.3.	Respondent shall provide mid and end campaign reports of effectiveness, click/conversion rates, Return on Investment (ROI), and other data.	
8.3.4.	Respondent shall provide and support additional online advertising strategies and solutions.	
8.3.5.	Respondent will provide summary reports as needed upon request	

8.4. Social Media Requirements

Req #	Social Media Requirements	Shall Meet Requirement Yes or No?
8.4.1.	Respondent has proven experience in a variety of social channels.	
8.4.2.	Respondent has experience in providing strategy and engagement suggestions for social media.	
8.4.3.	Respondent shall provide Social Media reports to FLVS weekly or on an as needed basis.	
8.4.4.	Respondent has adequate available resources to support the creation and posting of content and to monitor FLVS social media activity.	
8.4.5.	Respondent will provide summary reports as needed upon request.	

8.5. Media Research Planning and Buying Requirements

Req #	Media Research Planning & Buying Requirements	Shall Meet Requirement Yes or No?
8.5.1.	Respondent has relationships, expertise, and ability to negotiate cost effective media solutions on behalf of FLVS. Respondent must be able to purchase and place both traditional and digital media.	
8.5.2.	Respondent has knowledge and expertise of Florida DMAs (Designated Market Area).	
8.5.3.	Respondent has access to media channel demographic information as well as internal expert resources to provide strategic guidance.	
8.5.4.	Respondent has adequate resources to explore and suggest new media channels and advertising opportunities.	

8.6 Branding and Creative Services Requirements

Req #	Branding and Creative Services Requirements	Shall Meet Requirement Yes or No?
8.6.1.	Respondent has expertise and resources to aid in FLVS branding strategy including creative strategies, positioning strategies, and messaging strategies.	
8.6.2.	Respondent has the ability to provide creative, original concepts and storyboards.	
8.6.3.	Respondent has the expertise and resources to execute print, broadcast, mobile, outdoor, online, and other advertising. This includes file set-up and delivery.	
8.6.4.	Respondent has the expertise and knowledge to execute professional video and audio recording and editing services.	

8.7 Public Relations Requirements

Req #	Public Relations Requirements	Shall Meet Requirement Yes or No?
8.7.1.	Respondent has the expertise and knowledge to create and implement a media strategy plan and aid in proactive public relations efforts.	
8.7.2.	Respondent has a press release distribution provider method/software/subscription tool. Respondent has a writer on staff as well as relationships and/or expertise necessary for media pitching within all business sectors.	
8.7.3.	Respondent has proven experience in crisis management. Respondent must be able to issue and handle local, regional, and national communication efforts associated with a large crisis campaign.	
8.7.4.	Respondent has experience and resources necessary to aid in creating and implementing a strategy that will position FLVS as a thought leader.	

8.8 Exceptions to the RFP Note: FLVS reserves the right to reject proposals with exceptions to the requirements of this RFP and /or take the exceptions into consideration when evaluating.

No.	Summary of Exception	Exception to Paragraph or Requirement Number

8.9 ALTERNATIVES TO THE SCOPE OF WORK

No.	Summary of Alternative	Alternative to SOW Paragraph Number

9.0 PROPOSAL PRICE SHEET

Provide a schedule of values for fees associated with the various services to be provided. Respondent shall include any cost containment strategies with proven success. Rates quoted shall include all travel, materials, labor, and related costs.

9.1 Upcharge Percentage - Respondent shall provide their maximum blended Commission percentage for media services, including print, radio, television, outdoor, and search engine services. Provide any discounts for increased volume in accordance with the spend thresholds provided:

Spend Tier	Up Charge Percentage (%)
Up to \$500,000	%
\$500,001 to \$750,000	%
\$750,000 – \$1,000,000	%

Pricing tiers represent estimated volume of spend. For evaluation purposes, the average percentage will be used to determine overall value.

9.2 COST PROPOSAL FORM – Hourly Rates:

Vendors shall provide hourly rates for additional related services not specified in the scope of services. These rates will remain firm for the duration of the contract. Hourly rates shall include all costs. Provide the position title and fully burdened hourly rate.

Item	Position Name	Unit Price	Unit of Measure	Number or hours	Extended Rate
1.	Executive Marketing Consultation	\$	Per hour	100	\$
3.	Media	\$	Per hour	800	\$
4.	Public Relations	\$	Per hour	600	\$
5.	Account Services	\$	Per hour	800	\$
		Total Cost			\$

Unit price will be used to determine the correct extended price if calculation error is found.

* Extended price should be computed as Estimated Total Hours times Proposed Unit Price

* All quantities are estimated and could be higher or lower at the discretion of FLVS in accordance with the Statement of Work.

FLVS reserves the right to make award(s) by individual item, group of items, all or none or a combination thereof; to reject any and/or all Bids or to waive any minor irregularity or technicality. Responders are cautioned to make no assumptions unless their proposal has been evaluated as being responsive. Cash discounts for prompt payment shall not be considered in determining the lowest net cost for bid evaluation purposes.

10. REFERENCES (CLIENT)

I _____ being of _____

(Name/Title)

(Name of Company)

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

Authorizing Signature _____

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

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

10. REFERENCES (SERVICE PROVIDER)

I _____ being of _____

(Name/Title)

(Name of Company)

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

Authorizing Signature _____

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

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

Appendix A

Vendor's Statement of Qualification

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

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

8. Provide the following financial information:

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

Authorized Representative's Signature

Company Name

Appendix B

ACKNOWLEDGEMENT OF BUSINESS TYPE

This form must be signed in the presence of a Notary Public or other officer authorized to administer oaths and submitted with the bid on the specified due date and time. The undersigned Bidder certifies that this proposal package is submitted in accordance with the scope of services in its entirety and with full understanding of the conditions governing this proposal. The Bidder further declares that he/she has carefully examined the scope of services, instructions, terms and conditions of this Invitation to Bid and that Bidder's proposal is made according to the provisions of the bid and that he/she will meet or exceed the scope of services, requirements, and standards contained in the Invitation to Bid.

BUSINESS ADDRESS OF BIDDER:

Address _____

City, State, Zip Code _____

Telephone No. _____ Fax No. _____

SIGNATURE OF BIDDER

If an Individual: _____
Signature

doing business as _____

If a Partnership: _____
Name of Partnership

by: _____
Partner Signature

If a Corporation: _____
Corporate Name

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

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

by: _____ Title: _____
Signature

Attest: _____ (SEAL)

Corporate Secretary

NOTARY PUBLIC

State Of: _____ County Of: _____

On this ____ day of _____, 20____, before me appeared (name) _____ who is personally known to me or who has produced _____ as identification sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____, to execute the affidavit and did so as his or her free act and deed.

Notary Public Signature: _____ Notary Name, Printed, Typed or Stamped: _____

Commission Number: _____ My Commission Expires: _____

Appendix C

STATEMENT OF AFFIRMATION AND INTENT

TO: FLORIDA VIRTUAL SCHOOL, PROCUREMENT DIVISION

PROJECT: _____

DATE: _____

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

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

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

The Proposer further declares that he/she has carefully examined the scope of services, instructions, terms and conditions of this Request for Proposal and that Proposer's Response is made according to the provisions of the RFP and that he/she will meet or exceed the scope of services, requirements, and standards contained in the Request for Proposals.

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

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

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

Signature of Authorized Firm Representative

Date

Name and Title of Authorized Firm Representative (Typed)

E-mail Address

Name of Firm (Typed)

Address, City, Zip

Telephone Number

Fax Number

Sworn to and subscribed before me this ___ day _____ of 20__.

Notary

Public Commission Expiration Date

APPENDIX D

MUTUAL NONDISCLOSURE AGREEMENT

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

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

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

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

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

Florida Virtual School

Signature:

Print Name:

Title:

Company

Signature:

Print Name:

Title:

Company/School/District:

Phone Number:

Email:

Appendix E

ADDENDA FORM

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

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

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

ADDENDUM NO	_____	Dated	_____
ADDENDUM NO	_____	Dated	_____
ADDENDUM NO	_____	Dated	_____

Date: _____

Name of Organization: _____

Name: _____

Title _____

Signature _____

DISPUTE RESOLUTION CLAUSE

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

Representative's Name: _____

Telephone Number: _____

FLVS representative will be the Procurement Director.

Appendix F

FAIR LABOR STANDARDS ACT - "HOT GOODS"

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

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

Company Official Signature: _____

Date: _____

PUBLIC ENTITY CRIMES

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

Company Official Signature: _____

Date: _____

FEDERAL DEBARMENT CERTIFICATION

Certification regarding debarment, suspension, ineligibility and voluntary exclusion.

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

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

Company Official Signature: _____

Date: _____

Appendix G

DRUG-FREE WORKPLACE CERTIFICATION

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

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

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

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

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

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

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

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

Company Official Signature:

Date:

Appendix H

PUBLIC RECORDS ACT/CHAPTER 119 REQUIREMENTS

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

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

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

Company Official Signature: _____

Date: _____

FLORIDA VIRTUAL SCHOOL

Standard Master Service Contract Form

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

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

Entity Name Florida Virtual School	(hereafter called FLVS)
Contractor's Name	
(hereafter called Contractor)	

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

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

4. Maximum Amount of this Contract: _____ **Contract Not to Exceed:**
\$ _____

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

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

Attachment 1 – FLVS Standard Master Service Contract Terms and Conditions for Services
Attachment 2 – Solicitation (referenced above)
Attachment 3 – Solicitation (referenced above) Addendum
Attachment 4 – Contractor's Final Response
Attachment 5 – Scope of Work (SOW)
Attachment 6: Contract Renewal Amendments (if any)

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

7.

Contractor

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

By <i>(Authorized Signature)</i>	Date Signed
Printed Name and Title of Person Signing	
Address	

8.

FLVS

FLVS Name
Florida Virtual School

By <i>(Authorized Signature)</i>	Date Signed
Printed Name and Title of Person Signing	
Address 2145 Metrocenter Blvd. Orlando, Florida 32835	

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

1. DEFINITIONS AND GENERAL INFORMATION

1.1 Definitions. The following words shall be defined as set forth below:

- (i) **"FLVS"** means Florida Virtual School or the entity identified in the Standard Master Service Contract Form to contract with the Contractor for the Services identified in the Contract.
- (ii) **"FLVS Standard Master Service Contract"** or **"Contract"** means the agreement between FLVS and the Contractor as defined by FLVS Standard Master Service Contract Form and its incorporated documents.
- (iii) **"FLVS Standard Master Service Contract Form"** means the document that contains basic information about the Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFX, Contractor's Response to the RFX, the final pricing documentation for Services and any mutually agreed clarifications, modifications, additions and deletions resulting from final contract negotiations. No objection or amendment by a Contractor to the RFX requirements or the Contract shall be incorporated by reference into this Contract unless FLVS has accepted the Contractor's objection or amendment in writing. FLVS Standard Contract Form is defined separately and referred to separately throughout FLVS Standard Master Service Contract as a means of identifying the location of certain information. For example, the initial term of the Contract is defined by the dates in FLVS Standard Master Service Contract Form.
- (iv) **"Contractor"** means the provider(s) of the Services under the Contract.
- (v) **"Purchase Instrument"** means the documentation issued by FLVS to the Contractor for a purchase of Services in accordance with the terms and conditions of the Contract. The Purchase Instrument should reference the Contract and may include an identification of the Services to be purchased, the time and location such Services will be utilized, and any other requirements deemed necessary by FLVS.
- (vi) **"Response"** means the Contractor's submitted response to the RFX, including any modifications or clarifications accepted by FLVS.
- (vii) **"RFX"** means the Request for Proposal, Request for Bid, Invitation to Negotiate or other solicitation document (and any amendments or addenda thereto) specifically identified in FLVS Standard Master Service Contract Form that was issued to solicit the Services that are subject to the Contract.
- (viii) **"Services"** means the services and deliverables as provided in the SOW and as further described by the Response and the Contract.

- (ix) **"State"** means the State of Florida, FLVS, and any other authorized state entities issuing Purchase Instruments against the Contract.
- (x) **"Statement of Work (SOW)"** means the Contractor's Responsibilities as described in detail in Attachment 5.

- 1.2 **Priority of Contract Provisions.** Any pre-printed contract terms and conditions included on Contractor's forms or invoices shall be null and void.
- 1.3 **Reporting Requirements.** Contractor shall provide all reports required by the SOW. In addition, unless otherwise provided in the SOW, Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a quarterly written report to FLVS.
- 1.4 **Construction of Contract:** FLVS and the contractor waive application of the principle of contract construction that ambiguities are to be construed against a contract's drafter, and agree that this Agreement is their joint product. FLVS and the Contractor agree that they have had their respective attorneys review and approve this Agreement or that they have had the opportunity to do so. Time is of the essence with regard to each and every obligation of the Contractor contained in the Agreement. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from the untimely performance thereof) shall constitute a material breach.

2. DURATION OF CONTRACT

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

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

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

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

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

3. DESCRIPTION OF SERVICES

- 3.1 Statement of Work (SOW):** All Services shall be provided in accordance with the specifications contained in the attached Statement of Work, the terms of the Contract, and as further described in Contractor's Response.
- 3.2 Non-Exclusive Rights.** The Contract is not exclusive. FLVS reserves the right to select other contractors to provide services similar to the Services described in the Contract during the term of the Contract.
- 3.3 No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or use of Services.

4. COMPENSATION

- 4.1 Pricing and Payment.** The Contractor will be paid for Services provided pursuant to the Contract and final pricing documents as incorporated into FLVS Standard Master Service Contract Form and the terms of the Contract. Unless clearly stated otherwise in the Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. FLVS shall pay the amount set out in Attachment 3 or in the applicable Statements of Work for any goods and/or services purchased hereunder. Payments made to the Contractor may be by a Visa Purchasing Card.
- 4.2 Billing/Invoice.** The Contractor shall submit an invoice for the Services supplied to FLVS under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. FLVS shall pay all approved invoices in arrears and in accordance with applicable provisions of State law.

Invoices should be submitted within fifteen (15) days of completion of work. Detailed invoices are to be sent to the attention Project Manager for approval for hours worked on the listed projects. FLVS will only reimburse Contractor for expenses incurred in performing services authorized in advance by FLVS project manager. FLVS shall pay to Provider the fees for services within forty-five (45) days of receipt of invoice.

Unless otherwise agreed in writing by FLVS and the Contractor, the Contractor shall not be entitled to receive any other payment or compensation from FLVS for Services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

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

5. TERMINATION

- 5.1 Immediate Termination.** This Contract will terminate immediately and absolutely if FLVS determines that adequate funds are not appropriated or granted or funds are de-appropriated such that FLVS cannot fulfill its obligations under the Contract, which determination is at FLVS sole discretion and shall be conclusive. Further, FLVS may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- 5.1.1 In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - 5.1.2 FLVS determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
 - 5.1.3 The Contractor fails to comply with confidentiality laws or provisions; and/or
 - 5.1.4 The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.
- 5.2 Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for FLVS to declare the Contractor in default of its obligations under the Contract:
- 5.2.1 The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to FLVS satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
 - 5.2.2 FLVS determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
 - 5.2.3 The Contractor fails to make substantial and timely progress toward performance of the Contract;
 - 5.2.4 The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or FLVS reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - 5.2.5 The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
 - 5.2.6 The Contractor has engaged in conduct that has or may expose FLVS to liability, as determined in FLVS sole discretion; or
 - 5.2.7 The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of FLVS.
 - 5.2.8 The Contractor is found guilty of a public crime.
- 5.3 Notice of Default.** If there is a default event caused by the Contractor, FLVS shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in FLVS written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, FLVS may:
- 5.3.1 Immediately terminate the Contract without additional written notice; and/or

5.3.2 Procure substitute services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,

5.3.3 Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

5.4 Termination Upon Notice. Following thirty (30) days' written notice, FLVS may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for Services provided under the Contract to FLVS up to and including the date of termination.

5.5 Termination Due to Change in Law. FLVS shall have the right to terminate this Contract without penalty by giving thirty (30) days' written notice to the Contractor as a result of any of the following:

5.5.1 FLVS authorization to operate is withdrawn or there is a material alteration in the programs administered by FLVS; and/or

5.5.2 FLVS duties are substantially modified.

5.6 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by FLVS, FLVS shall pay only those amounts, if any, due and owing to the Contractor for the Services actually rendered up to the date specified in the notice of termination for which FLVS is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to FLVS under the Contract in the event of termination. The FLVS shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

5.7 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of FLVS, the Contractor shall:

5.7.1 Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters FLVS may require;

5.7.2 Immediately cease using and return to FLVS, any personal property or materials, whether tangible or intangible, provided by FLVS to the Contractor;

5.7.3 Comply with FLVS instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;

5.7.4 Cooperate in good faith with FLVS and its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor(s); and

5.7.5 Immediately return to FLVS any payments made by FLVS for Services that were not delivered or rendered by the Contractor.

6. CONFIDENTIAL INFORMATION

- 6.1 Access to Confidential Data.** The Contractor's employees, agents and subcontractors may have access to confidential data maintained by FLVS to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by FLVS. If it is reasonably likely the Contractor will have access to FLVS's confidential information, then:
- 6.1.1** The Contractor shall provide to FLVS a written description of the Contractor's policies and procedures to safeguard confidential information;
 - 6.1.2** Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
 - 6.1.3** The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
 - 6.1.4** The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract.

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

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

7. INDEMNIFICATION

- 7.1 Contractor's Indemnification Obligation.** The Contractor agrees to indemnify and hold harmless FLVS, its Board of Directors, and all State of Florida officers, employees, agents, and volunteers who are engaged in any activities relating to the Contract (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:
- 7.1.1** Any breach of the Contract;

- 7.1.2 Any negligent, intentional or wrongful act or omission of the Contractor or any employee, agent or subcontractor utilized or employed by the Contractor;
 - 7.1.3 Any failure of Services to comply with applicable specifications, warranties, and certifications under the Contract;
 - 7.1.4 The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the Services provided under the Contract;
 - 7.1.5 Claims, demands, or lawsuits that, with respect to the goods (if any) or any parts thereof, allege product liability, strict product liability, or any variation thereof;
 - 7.1.6 The Contractor's performance or attempted performance of the Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;
 - 7.1.7 Any failure by the Contractor to comply with the "Compliance with the Law" provision of the Contract;
 - 7.1.8 Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Florida or the United States;
 - 7.1.9 Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
 - 7.1.10 Any failure by the Contractor to adhere to the confidentiality provisions of the Contract.
- 7.2 Duty to Reimburse State Tort Claims Fund.** To the extent such damage or loss as covered by this indemnification is also covered by the State of Florida Tort Claims Fund ("the Fund"), the Contractor (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of the State and the terms of the Fund, the Contractor and its insurers waive any right of subrogation against the FLVS, the Indemnified Parties, and the Fund and insurers participating thereunder, to the full extent of this indemnification.
- 7.3 Litigation and Settlements.** . No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Contractor unless approved in writing by Contractor. No settlement or compromise of any claim, loss or damage entered into by Contractor shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties. Both parties recognize that the Florida Legislature has waived sovereign immunity for liability relating to certain torts, but only to the extent specified in § 768.28 of the Florida Statutes. .
- 7.4 Intellectual Property Indemnification.** Contractor shall, at its own expense, indemnify, defend and hold harmless the Indemnified Parties, from and against any third-party liabilities, claims, demands or suits alleging that the Indemnifying Party's goods or services infringes any patent, trademark, copyright or other Intellectual Property right of a third party and shall pay all damages awarded or agreed to under a settlement for the Indemnified Parties;

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

- 7.4.1 Procure for FLVS the right to continue using the Services;
- 7.4.2 Replace or modify the same to the reasonable satisfaction of FLVS so that it becomes non-infringing; or
- 7.4.3 Remove the same and cancel any future charges pertaining thereto.

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

- 7.4.4 Compliance with designs, plans or specifications furnished by or on behalf of FLVS as to the Services;
- 7.4.5 Use of the Services in combination with apparatus or devices not supplied by Contractor, but only if combination is the cause of the infringement; or
- 7.4.6 Use of the Services in a manner for which the same was neither designed nor contemplated.

7.5 Procedure for Indemnification. For all claims subject to indemnification obligations, FLVS will: (i) provide prompt notice to Contractor of the claim (but delayed notification shall not constitute a basis for avoiding indemnification unless the delay materially prejudices Contractor's ability to defend the claim); (ii) subject to approval of the Attorney General of the State of Florida, provide Contractor with control over the defense and/or settlement of such claim (with the Indemnified Parties retaining the right to be represented by their own counsel at their own expense if they so elect), and (iii) provide reasonable cooperation and assistance, with regard to such claim. Contractor may not resolve any claims against FLVS in a manner that imposes any liability other obligations on the Indemnified Parties without FLVS' prior written consent.

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

8. INSURANCE

8.1 Contractor shall provide all insurance as required.

8.1.1 Contractor shall obtain and maintain in full force prior to performance and effect throughout the initial Term and any Renewal Term no less than 5 years past the completion of the project with a reputable insurance carrier qualified to do business in the state or states in which the Premises are located and having a rating of not less than "A" from A.M. Best & Company. All certificates of insurance shall be provided within ten calendar days of contract execution.

8.1.2 All policies of insurance shall be written on a per occurrence basis. All such insurance policies shall, to the extent permitted under applicable law, provide that (a) the policies shall not be cancelled nor shall any material change be made therein without at least ten (10) days prior written notice to Florida Virtual School (FLVS) and (b) FLVS is to be named as an additional insured party with respect to Respondent activities.

8.1.3 General Liability Insurance of not less than One Million (1,000,000) per occurrence and Two Million (2,000,000) General Aggregate for bodily injury and property damage liability, and personal injury and advertising liability. The General Liability policy should be on CGL 0001 (12/04) or equivalent form. Insurance shall be primary and non-contributory to any other insurance of the certificate holder and shall name the certificate holder, owners and any other required by written contract or an agreement as additional insured.

- a) Policy should be endorsed with a “per project aggregate”. All coverage’s should include contingent liability and contingent property damage liability. If coverage is written on a Claims made basis the retroactive and continuity dates should be at least the first day services begin with FLVS. Policy should include an endorsement waiving all rights to subrogate against FLVS.
- b) The above policies for General Liability insurance must be so written as to include Contingent Liability and Contingent Property Damage Insurance to protect the contract against claims arising from the operation of subcontractors.

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

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

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

9. BONDS

9.1 The Contractor shall provide all required bonds as stated by FLVS herein. The bonds shall be issued by a company licensed to do business in the state of Florida, with offices in Florida and with a four star rating or higher

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|--------------|-------------------|-----------------------------------|---|
| 9.1.1 | Bid Bond: | Required <input type="checkbox"/> | Not Applicable <input type="checkbox"/> |
| 9.1.2 | Contract Bond: | Required <input type="checkbox"/> | Not Applicable <input type="checkbox"/> |
| 9.1.3 | Maintenance Bond: | Required <input type="checkbox"/> | Not Applicable <input type="checkbox"/> |
| 9.1.4 | Performance Bond: | Required <input type="checkbox"/> | Not Applicable <input type="checkbox"/> |

9.1.5 Payment Bond: Required Not Applicable

10. WARRANTIES

- 10.1 Construction of Warranties Expressed in the Contract with Warranties Implied by Law:** All warranties made by the Contractor and/or subcontractors in all provisions of the Contract and the Contractor's Response, whether or not the Contract specifically denominates the Contractor's and/or subcontractors' promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the Services to be provided, or by provision of samples to FLVS shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Services provided by the Contractor. The provisions of this section apply during the term of the Contract and any extensions or renewals thereof.
- 10.2 Warranty – Nonconforming Services and Goods.** All Services and any goods delivered by Contractor to FLVS shall be free from any defects in design, material, or workmanship. If any Services or goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, FLVS shall have the option of returning, repairing, or replacing the defective Services or goods at Contractor's expense. Payment for Services and any goods shall not constitute acceptance. Acceptance by FLVS shall not relieve the Contractor of its warranty or any other obligation under the Contract.
- 10.3 Compliance with Federal Safety Acts.** Contractor warrants and guarantees to FLVS that the Services provided under the Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.
- 10.4 Conformity with Contractual Requirements.** The Contractor represents and warrants that the Services provided in accordance with the Contract will appear and operate in conformance with the terms and conditions of the Contract.
- 10.5 Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into the Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to FLVS.
- 10.6 Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that FLVS will not have any obligations with respect thereto.
- 10.7 Confidentiality of FLVS Data.** With respect to all confidential data or other materials provided to Contractor in conjunction with this Agreement, including but not limited to financial, statistical, technical, personnel data, and student data, Vendor shall keep and instruct its personnel to keep such information confidential by using the same care and discretion Vendor uses with its own most highly confidential information, but in no even less than a reasonable
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standard of care. This Agreement shall not affect the rights of either party to use or disclose information (a) which such party can demonstrate to have been in the public domain through no wrongful act of such party prior to the date of its disclosure to such party by the other party; (b) which such party can demonstrate by written records predating disclosure to the other party by such party to have been in the possession of such party on a non-confidential basis prior to the date of its disclosure; (c) which becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission on the part of such party; (d) which such party can show by written records to have been disclosed to the other party on a non-confidential basis by a third party having a lawful right to do so; or (e) which is required to be disclosed by law, or governmental, judicial or legal process, provided, in each case that to the extent not contrary to law or any provision of any regulatory authority, such party timely informs the other party and, at the expense of the other party, cooperates with the other party to limit such disclosure. Vendor further agrees neither it nor its' employees will use student information for any reason including but not limited to bulk commercial mailings (spam), selling email addresses, or revealing the names and email addresses of primary or end users. Vendor ensures that employees with access to student data will abide by this policy.

- 10.8 Assignment. For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor agrees to and hereby does assign to FLVS all intellectual property rights in all written materials, video, graphics or other multimedia materials, computer programs (including all source and object code, documentation, manuals or specifications relating to same) and any other works or materials created for FLVS under this Agreement or any Statement of Work as such rights are defined in any jurisdiction throughout the world (the "Work Product"). Contractor agrees to execute all documents that may be necessary to confirm FLVS' ownership of the Work Product, acknowledges that FLVS may use the Work Product in whatever way and for whatever purpose it chooses, in its sole discretion, and represents and warrants that any third parties who are permitted to contribute to the Work Product under this Agreement are bound by all of the obligations of this paragraph.
- 10.9 License To Preexisting And Third-Party Materials. Unless otherwise approved by FLVS in advance, no third-party materials or preexisting Contractor materials will be incorporated into or combined with any Work Product delivered to FLVS. For any third-party materials or preexisting Contractor materials that are approved for use with Work Product, Contractor grants FLVS (on its own behalf and on behalf of any required third parties) a perpetual, non-exclusive, royalty free license to possess and use same for all purposes contemplated in this Agreement, including the right to create derivative works based on same.
- 10.10 Contractor's Representations and Warranties. Contractor represents and warrants that: (a) all Work Product created hereunder will be wholly original to Contractor and that Contractor has full right, title and authority to transfer ownership of same to FLVS as contemplated hereunder; (b) for any materials or other assets provided under this Agreement for which Contractor does not have full right, title or ownership, that Contractor has all necessary right and authority to grant the licenses or other rights set forth in this Agreement; (c) that there are no third-party restrictions on Contractor's rights, including but not limited to any confidentiality restrictions, license restrictions, encumbrances, liens or use restrictions, that will prevent FLVS from exercising the rights granted under this Agreement; (d) any Work Product will be compatible with and may be used in conjunction with other software or hardware as described herein, in any Statement of Work, or in any documentation relating to the Work Product; (e) there are no copy protection or similar mechanisms within the Work Product or any materials being licensed

with it which will, either now or in the future, interfere with the rights granted herein; (f) the Work Product and any other materials licensed hereunder do not contain any virus, worm, Trojan Horse, tracking software or devices capable of identifying users or tracking use, or any undocumented software locks or drop dead devices which would render inaccessible or impair in any way the operation of the Work Product or any other hardware, software or data which the Work Product is designed to work with; (g) unless approved by FLVS in advance, the Work Product and any materials licensed with it are and shall be free from all liens and encumbrances, shall not contain any "open source" software, freeware or software subject to any public license or similar license obligations; (h) the Work Product, any materials licensed with it and FLVS exercise of its rights hereunder, do not and will not infringe upon, violate or misappropriate any patent, copyright, trade secret, trademark, contract, right of publicity or privacy, or other right or interest of any third party, will not constitute libel or slander against, any person, firm or corporation, and no such third party claims are pending or have been asserted or threatened as of the Effective Date; and (i) any maintenance, support or other services performed hereunder shall be performed in a professional and competent manner in accordance with industry standards and in compliance with all applicable laws, regulations and orders.

- 10.11 Hosting Or Storing FLVS Data. [THIS PROVISION APPLIES ONLY IF CONTRACTOR IS HOSTING OR STORING DATA FOR FLVS] If this Agreement contemplates Contractor hosting or otherwise storing FLVS' data on FLVS' behalf, Contractor agrees to maintain the appropriate security safeguards reasonably necessary to prevent unauthorized persons from accessing, using, disclosing, or otherwise committing any act that could breach or compromise the privacy, availability, integrity, or content of such data or information. Contractor and/or its designated hosting provider shall transmit and store any and all Confidential Information using a commercially supported encryption solution. Stored information means Confidential Information resting on any end user device, including but not limited to laptop and desktop computers, smartphones, tablets and PDA computers, CD/DVD media, removable flash drives, and backup tapes. Licensor shall transmit all Confidential Information in encrypted form. Licensor shall employ encryption solutions that meet the recommendations of the National Institute of Standards and Technology (NIST) Special Publication 800-111 and Federal Information Processing Standard (FIPS) 140-2.

In the event Contractor or its representatives becomes aware of any unauthorized access to, use or disclosure of, or potential access to or use or disclosure of any of FLVS' data being stored for FLVS (a "Data Breach"), Contractor shall promptly, and at its own expense, (i) notify FLVS of the Data Breach; (ii) cooperate with FLVS in the investigation, analysis, notification and mitigation activities; and (iii) indemnify FLVS for all costs FLVS incurs for those activities.

Contractor shall provide a monthly incremental update of FLVS data in an industry standard format to a repository mutually agreed upon with FLVS.

In the event Contractor's hosting or other storage of FLVS' data is terminated, Contractor must ensure that FLVS is able to output all data, and save all reports, documents, and images in appropriate file folders prior to such termination and will provide, at no additional cost, reasonable assistance to FLVS to recover its data. To facilitate FLVS' recovery of its data, Contractor must provide a Data Dictionary for all data stores that hold or manage FLVS data. "Data Dictionary" means a document that describes the details of all databases and database management systems (DBMS) including the schema used to structure the data, the types of records stored in the database, integrity constraints, whether or not the records are encrypted,

relationships and dependencies of the data to other systems, as well as the locations, hostnames, IP addresses of the database and DBMSs; additionally, the document must include the name and locations of all log files, transaction logs, key storage, and all other pertinent details that help identify, locate and access the database system and all of its components. FLVS may use the information related to such Data Dictionary for creating software interfaces to the applicable databases. The Contractor data systems must provide FLVS with all reasonably required connectivity information to ensure that FLVS may connect any third party or FLVS owned functional components to the Contractor data systems as deemed necessary by FLVS, in its discretion, to obtain its data in useable form and in a manner that will minimize the disruption to FLVS' operations.

- 10.12 Industry Standards. The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.
- 10.13 Contractor's Personnel and Staffing. Contractor warrants that all persons assigned to perform Services under this Contract are either lawful employees of Contractor or lawful employees of a subcontractor authorized by FLVS as specified in the RFX. All persons assigned to perform Services under this Contract shall be qualified to perform such Services. Personnel assigned by Contractor shall have all professional licenses required to perform the Services.
- 10.14 Security. FLVS requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide Services to FLVS. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Contract if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by FLVS. The Contractor's employees, agents and subcontractors may be granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations to the extent necessary to carry out the Contractor's responsibilities under the Contract. Such access may be terminated at the sole discretion of FLVS. The Contractor shall provide immediate notice to FLVS of any employees, agents and/or subcontractors suspected of abusing or misusing such access privilege. The Contractor represents and warrants that Contractor shall provide notice to FLVS of the changed status of any employee, agent or subcontractor granted access to state computers, hardware, software, programs and/or information technology infrastructure or operations, including, but not limited to, termination or change of the position or contract relationship.
- 10.15 Jessica Lunsford Act: Effective September 1, 2005, in order to be in compliance with the Jessica Lunsford Act, Awardees meeting any of the three criteria listed below will be required to be Level II fingerprinted and screened by our Human Resources Department. This consists of a FDLE/FBI criminal record and fingerprint search. Contractor shall assign no person to perform work hereunder who has any form of criminal record without the prior written authorization of FLVS.

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

- 10.16 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases

of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

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

11. PRODUCT RECALL

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

12. SOLICITATION OF EMPLOYEES

Each Party (FLVS and Contractor) agrees that, during the Term of this Agreement and for a period of twelve months following the termination of this Agreement for any reason, such Party shall not, directly or indirectly, on its own behalf or as a representative of any other person or entity, solicit or induce any employee of the other Party to terminate his or her employment relationship or to enter into employment with any other person or entity. Notwithstanding the foregoing, a general solicitation for resumes or employees published in a newspaper, on the internet or in any other public medium or in a similar manner will not be deemed to be a violation of this Section 12. Contractor acknowledges that FLVS has informed Contractor that FLVS employees are under contract that contain non-compete Agreement and Contractor will not hire said employees unless the non-compete Agreement has expired.

13. CONTRACT ADMINISTRATION

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

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

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

Contractor shall be subject to periodic performance evaluations by FLVS personnel. Continued unsatisfactory ratings shall be cause to find the Contractor in default of the contract.

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

13.1 Compliance with the Law. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Contract. Contractor and Contractor's personnel shall also comply with all State and FLVS policies and standards in effect during the performance of the Contract, including but not limited to FLVS's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics.

13.2 Drug-free Workplace. The Contractor hereby certifies as follows:

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

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

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

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

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

- 13.2.6** Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.
- 13.3** Amendments. The Contract may be amended in writing from time to time by mutual consent of the parties. If the contract award exceeds the delegated purchasing authority of FLVS, then FLVS must obtain approval of the amendment from the Board. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of FLVS and the Contractor.
- 13.4** Third Party Beneficiaries. There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit FLVS, and the Contractor.
- 13.5** Choice of Law and Forum. The laws of the State of Florida shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Orange County, Florida. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to FLVS.
- 13.6** Attorney's Fees. If any action is commenced to construe or enforce any term, covenant, or condition of this Agreement, the prevailing party in such action shall be entitled to all costs and expenses of said action (including reasonable attorney's fees at the trial and appellate levels) from the unsuccessful party in said action.
- 13.7** Arbitration. In the event of any controversy or claim arising out of or relating to this Agreement, the parties specifically and irrevocably agree to submit such controversy or dispute to resolution by arbitration to be conducted in Orange County, Florida, in accordance with the arbitration rules of the American Arbitration Association. A judgment upon any award or decision rendered by the arbitrator shall be entered by a court having subject matter jurisdiction therein and all parties expressly waive any challenge to the use of arbitration in accordance with this paragraph. The parties hereto agree that jurisdiction ad venue for the entry of a judgment upon said arbitration award or decision shall be in Orange County, Florida. The arbitrators are directed to award the expenses of the arbitration, including required travel and other expenses of the arbitrators and any representatives of the arbitrators, the cost and charges of the American Arbitration Association and all reasonable attorney's fees and costs to the prevailing party in the arbitration.
- 13.8** Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation. In addition to any dispute resolution procedures otherwise required under this Contract or any informal negotiations which may occur between FLVS and the Contractor, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen (14) calendar days written notice to FLVS of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either FLVS or the Contractor may elect to submit the matter for mediation. Either FLVS or the Contractor may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Orlando, Florida; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith.

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

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

- 13.9 Assignment and Delegation.** The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of FLVS. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.
- 13.10 Use of Third Parties.** Except as may be expressly agreed to in writing by FLVS, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than Contractor or Contractor's personnel to perform any of Contractor's obligations under this Contract or any of the work subsequently assigned under this Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of FLVS. FLVS shall have the right to request the removal of a subcontractor from the Contract for good cause.
- 13.11 Integration.** The Contract represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.
- 13.12 Headings or Captions.** The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- 13.13 Not a Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent contractor contracting for the Services and acting toward the mutual benefits expected to be derived herefrom. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of FLVS. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.
- 13.14 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be

jointly and severally liable for carrying out the activities and obligations of the Contract, and for any default of activities and obligations.

13.15 Supersedes Former Contracts or Agreements. Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between FLVS and the Contractor for the Services provided in connection with the Contract.

13.16 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of FLVS and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

13.17 Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in FLVS Standard Master Service Contract Form. Each such notice shall be deemed to have been provided:

13.17.1 At the time it is actually received; or,

13.17.2 Within one (1) day in the case of overnight hand delivery, courier or Services such as Federal Express with guaranteed next day delivery; or,

13.17.3 Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

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

13.18 Cumulative Rights. The various rights, powers, options, elections and remedies of any party provided in the Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

13.19 Severability. If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of FLVS and the Contractor to amend, modify, eliminate, or otherwise change any part of this Contract shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect.

13.20 Time is of the Essence. Time is of the essence with respect to the performance of the terms of the Contract. Contractor shall ensure that all personnel providing Services to FLVS are responsive to FLVS's requirements and requests in all respects.

13.21 Authorization. The persons signing this Contract represent and warrant to the other parties that:

- 13.21.1** It has the right, power and authority to enter into and perform its obligations under the Contract; and
- 13.21.2** It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 13.22** Successors in Interest. All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 13.23** Record Retention and Access. The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to FLVS throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall grant access to all records pertaining to the Contract to FLVS's authorized representative. The Contractor shall permit onsite access visits by designated FLVS employees or agents to conduct audits. These audits may require FLVS access to records and data, computers or communications devices, and other materials whether owned or operated by the Contractor. Access may include, but is not limited to, user level and/or system level access to any computing or communications device; access to information (electronic, hardcopy, etc.) that may be produced, transmitted or stored on the Contractor's equipment or premises; access to work areas; and access to interactively monitor and log traffic on the Contractor's networks.
- 13.24** Solicitation. The Contractor warrants that no person or selling FLVS (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.
- 13.25** Immunity from Liability. Every person who is a party to the Contract is hereby notified and agrees that FLVS is immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.
- 13.26** Public Records. Florida Virtual School is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law including: (a) keeping and maintaining public records that ordinarily and necessarily would be required by the BOARD in order to perform the service; (b) providing the public with access to public records on the same terms and conditions that the BOARD would provide the records and at a cost that does not exceed the cost provided in chapter or as otherwise provided by law; (c) ensuring that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meeting all requirements for retaining public records and transfer at no cost to the BOARD, all public records in possession of the contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the BOARD in a format that is compatible with the information technology systems of the BOARD. The parties agree that if the contractor fails to comply with a public records request, then Florida Virtual School must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT, CustodianofRecords@flvs.net , OR BY PHONE 407-513-3325, OR BY MAIL TO: 2145 METROCENTER BLVD., SUITE 100, ORLANDO, FL 32835.

- 13.27 Debarred, Suspended, and Ineligible Status.** Contractor certifies that the Contractor and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any Agency of the State of Florida or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify FLVS if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.
- 13.28 Use of Name or Intellectual Property.** Contractor agrees it will not use the name or any intellectual property, including but not limited to, FLVS trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of FLVS.
- 13.29 Taxes.** FLVS is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. FLVS is exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Contractor or an authorized subcontractor has provided FLVS with a sworn verification regarding the filing of unemployment taxes or persons assigned by Contractor to perform Services, which verification is incorporated herein by reference.
- 13.30 Certification Regarding Sales and Use Tax.** By executing the Contract, the Contractor certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Florida law The Contractor also acknowledges that FLVS may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in FLVS or its representative filing for damages for breach of contract.
- 13.31 Delay or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is delayed or made impossible by an act of God. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract.
- 13.32 Obligations Beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract. All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.
- 13.33 Counterparts.** FLVS and the Contractor agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

13.34 Further Assurances and Corrective Instruments. FLVS and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract.

13.35 Transition Cooperation and Cooperation with other Contractors. Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to FLVS or another contractor. The Contractor shall provide full disclosure to FLVS and the third-party contractor about the equipment, software, or services required to perform the Services for FLVS. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the Services to FLVS or to another contractor.

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

13.36 Order of Preference. In the case of any inconsistency or conflict among the specific provisions of FLVS Standard Master Service Contract Terms and Conditions (including any amendments accepted by both FLVS and the Contractor attached hereto), the RFX (including any subsequent addenda), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:

- (i) First, by giving preference to the specific provisions of FLVS Standard Master Service Contract Terms and Conditions.
- (ii) Second, by giving preference to the specific provisions of the SOW.
- (iii) Third, by giving preference to the specific provisions of the RFX, Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by FLVS in writing shall not be included in this Contract and shall be given no weight or consideration.

13.37 Intent of References to Bid Documents. The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as stated in the RFX and the Contractor's Response. The failure of the parties to make reference to the terms of the RFX or the Contractor's Response in this document shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFX and the Contractor's Response. The contractual obligations of FLVS cannot be implied from the Contractor's Response.

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

- (i) Contractor has made false certification here or in the RFX; or
- (ii) Contractor fails to carry out the requirements of this contract.

13.38 Severability. In the event any provision of this Agreement (or portion thereof) is determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such

provision shall be deemed to have been deleted from this Agreement, while the remainder of this Agreement shall remain in full force and effect according to its terms.

13.39 Travel. If Anticipated Contractor travel costs are included in contractor rates and fees for scope deliverables. FLVS will not be invoiced separately for Contractor travel expenses related to this anticipated travel. If Contractor arranges for their own travel, FLVS will only reimburse up to what is considered acceptable based on FLVS travel policy (Exhibit X - TR001).

**ATTACHMENT 2
FLVS STANDARD MASTER SERVICE CONTRACT**

Solicitation

[\[Attach Solicitation Document\]](#)

**ATTACHMENT 3
FLVS STANDARD MASTER SERVICE CONTRACT
Solicitation Addendum**

[Attach Solicitation Addendum if Any]

**ATTACHMENT 4
FLVS STANDARD MASTER SERVICE CONTRACT**

Contractor's Final Response

[Insert Contractor's Proposal]

**ATTACHMENT 5
FLVS STANDARD MASTER SERVICE CONTRACT**

Scope of Work (SOW)

[Insert Statement of Work/Scope of Work (SOW)]

**ATTACHMENT 6
FLVS STANDARD MASTER SERVICE CONTRACT**

**Amendments to the "FLVS Standard Master Service Contract Terms and Conditions"
and
Any FLVS Special Terms and Conditions**

FLVS Standard Master Service Contract Terms and Conditions are hereby modified as follows:

[Insert Amendments (if any)]