Submissions must be in an envelope separate from any express mail or courier envelopes, as those will be opened and discarded.

Be sure to include the name of the company submitting the proposal where requested.

Cut along the outer border and affix this label to your sealed envelope to identify it as a “Sealed Proposal”.

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SEALLED PROPOSAL • DO NOT OPEN
SOLICITATION NO: RFP 2018-02
SOLICITATION TITLE:
Mosquito Control Adulticides

SUBMISSION DUE DATE/TIME:
Wednesday, March 7th, 2018
2:00 PM

SUBMITTED BY:
_______________________________________
(Name of Company)

DELIVER TO:
Florida Keys Mosquito Control District
Attn: Rochele Miller, Purchasing Agent
5224 College Road
Key West, FL 33040
DATE: February 14, 2018

TO: Prospective Bidders

FROM: Andrea L. Leal, Executive Director

SUBJECT: RFP 2018-02 Mosquito Control Adulticides

The Florida Keys Mosquito Control District Board of Commissioners (FKMCD) desires to receive Sealed Bids from qualified firms for Mosquito Control Adulticides. **The Bid responses shall be limited to the abatement materials listed in the Legal Notice and the Specifications section of the Bid package.**

Refer to the Legal Notice contained in the enclosed Bid package for the time and due date for Bid submission.

If you have any immediate questions regarding the abatement material specifications, please contact Andrea Leal at (305) 292-7910; for procedural matters, you may contact Rochele Miller at (305) 292-7190 or by e-mail at: rlmiller@keysmosquito.org.

We look forward to your participation in this Bid process.
Notice is hereby given that the Board of Commissioners for the Florida Keys Mosquito Control District, at FKMCD Administration Building, 5224 College Road, Key West, Florida, 33040, will receive SEALED BIDS for furnishing the MOSQUITO CONTROL ADULTICIDES AND LARVICIDES listed below.

Dibrom Concentrate
Fyfanon ULV
Permethrin 30%, Piperonyl-Butoxide 30%

SEALED BIDS WILL BE RECEIVED AND OPENED at 2:00 P.M., on Wednesday, March 7th, 2018 at the Key West Administration Building, 5224 College Road, Stock Island, Key West. Recommendations will be given to the Board of Commissioners at a Regular Meeting to be held on March 20th, 2018 at the Marathon Mosquito Control Headquarters, 503 107th Street, Marathon. Bids must be clearly marked on the face of the envelope “Mosquito Control Adulticides.” All Bidders are welcome to be present for the opening and/or the award of the bids.

THE BOARD reserves the right to reject any or all proposals and to waive any and all irregularities in all bids.

BY ORDER of the Board of Commissioners, Florida Keys Mosquito Control District, Stock Island, Key West, Florida.

Phillip L. Goodman
Chairman

ATTEST:

Brandon Pinder
Secretary-Treasurer
INSTRUCTIONS TO BIDDERS
RFP 2018-02

BID SUBMISSION: The original and 5 copies of the Bid must be delivered in person or by mail to Florida Keys Mosquito Control District, Attn: Rochele Miller, 5224 College Road, Key West, Florida 33040, prior to 2:00 pm, Eastern Standard Time, on Wednesday, March 7th, 2018. All proposals must be sealed. The face of the envelope containing the proposal shall be clearly marked in large letters the words “Mosquito Control Adulticides.”

Bids received after the published deadline shall not be accepted and will be returned unopened. However, the FKMCD Board of Commissioners shall reserve the right to accept Bids received after the posted deadline under the following conditions:

a) The tardy submission of the Bid appears inadvertent and;
b) The acceptance of said Bid does not afford any competing firm an unfair advantage in the selection process.

EXCEPTIONS TO INSTRUCTIONS OR CONDITIONS: Bidders taking exception to any part or section of these instructions or conditions shall indicate such exceptions on their Bid. If no exceptions are indicated, it shall be interpreted as the Bidder’s intent to fully comply with the specifications as written. Exceptions taken by Bidders may result in exclusion of the Bid for consideration, depending on the extent of the exception(s).

PRINCIPALS/COLLUSION: By submission of this Bid, the undersigned, as Bidder, does declare that the only person or persons interested in this Bid as principal or principals is/are named therein and that no person other than therein mentioned has any interest in this Bid or in the abatement materials to be supplied; that this Bid is made without connection with any person, company or parties making a Bid, and that it is in all respects fair and in good faith without collusion or fraud.

BID WITHDRAWAL: No Bid can be withdrawn after it has been submitted and received by FKMCD unless the Bidder makes his request in writing to the FKMCD prior to the time set for the opening of Bids, or unless the FKMCD fails to accept it within sixty (60) days after the date fixed for opening.

BIDDER’S CERTIFICATION: Submission of a signed Bid is Bidder’s certification that the Bidder will accept any awards made to him as a result of said submission of the terms contained therein. All Bids shall be firm and valid for thirty (30) days after the Bid opening date.

TAXES: FKMCD is exempt from Federal Excise and State of Florida Sales Tax. FKMCD’s Tax Exemption Certificate Number is 85-8012646232C-1.

OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES: The FKMCD encourages and agrees to the successful bidder/proposer extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder/proposer. It is also understood and agreed that each local entity will establish its own contract, be invoiced and make its own payments to the successful bidder in accordance with the terms of the contract established between the local governmental entity and the successful bidder. It is also hereby mutually understood and agreed that FKMCD is not a legally bound party to any contractual agreement made between the successful bidder and any local entity other than FKMCD.

Additionally, bidders must be aware that, as a tax-supported government agency, FKMCD is eligible to purchase items under State of Florida Competitive Bidding Contracts or from any other government agency utilizing competitive bidding, and may exercise this option if it is in the best interest of FKMCD. If a similar product becomes available at a price less than the awarded bid price by at least five percent (5%), FKMCD reserves the right to purchase that product in lieu of the bid material.
RELATION OF FKMCD: It is the intent of the parties hereto that the successful Bidder shall be legally considered as an independent contractor, and that neither he nor his employees shall, under any circumstances, be considered servants or agents of the FKMCD, and that the FKMCD shall be at no time legally responsible for any negligence on the part of said successful Bidder, his servants or agents, resulting in either bodily or personal injury or property damage to any individual, firm, or corporation.

EXPENSES INCURRED IN PREPARING BID: The FKMCD accepts no responsibility for any expenses incurred in the Bid preparation or presentation; such expenses are to be borne exclusively by the Bidder.

LOYBINING: All firms are hereby placed on NOTICE that the FKMCD Board of Commissioners does not wish to be lobbied, either individually or collectively, in reference to this Bid. Firms and their agents are not to contact members of the FKMCD Board of Commissioners for such purposes as meetings of introduction, luncheons, dinners, etc.

During the process, from Bid closing to final Board approval, no firm or their agent shall contact any other employee of FKMCD in reference to this Bid, with the exception of the Executive Director, Director of Operations, the Purchasing Agent, or his or her designee(s). Failure to abide by this provision may serve as grounds for disqualification for award of this Bid to the firm.

BID FORM: Each Bidder must sign and submit the Bid forms included in this Request for Proposal.

SINGLE BID: Only one Bid from a legal entity as primary will be considered. A legal entity who submits a Bid as a primary or as part of a partnership or joint venture submitting as primary may not then act as a subfirm to any other firm submitting under the same Bid. If a legal entity is not submitting as a primary or as part of a partnership or joint venture as a primary, that legal entity may act as a subfirm to any other firm or firms submitting under the same Bid. If it is found that a Bidder is in violation of this section, all Bids in which such a Bidder is listed will be rejected.

SIGNATURE OF BIDDER: The Bidder must sign the Bid in the spaces provided for signatures. If the Bidder is an individual, the words “Sole Owner” shall appear after his signature. If the Bidder is a partnership, the word “Partner” shall appear after the signature of one of the partners. If the Bidder is a corporation, the signature required is the Officer(s) or Individual(s) duly authorized by its by-laws or the Board of Directors to bind the corporation with the official corporate seal affixed hereto.

REJECTION OR ACCEPTANCE OF BIDS: The FKMCD Board of Commissioners reserves the right to waive any irregularities in any Bid, to reject any or all Bids, to re-solicit for Bids, if desired, and upon recommendation and justification by FKMCD to accept the Bid which in the judgment of the FKMCD is deemed the most advantageous for the public and the FKMCD.

Any Bid which is incomplete, conditional, obscure, or which contains irregularities of any kind, may be subject to rejection. In the event of default of the successful Bidder, the FKMCD reserves the right to accept the Bid of any other Bidder or to re-advertise using the same or revised documentation, at its sole discretion.

PUBLIC ENTITY CRIME: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a Bid on a contract to provide any goods or services to a public entity. Florida Statutes Section 287.133 (3) requires that prior to an award of a contract for goods or services, including building construction contracts in excess of Threshold Category II ($35,000), a sworn statement shall be submitted.
**KEY PERSONNEL:** The personnel named in the Bid shall remain responsible throughout the Bid award period. No diversion or replacement may be made without submission of a resumé of the proposed replacement with final approval being granted by FKMCD.

**PROHIBITION OF GIFTS TO FKMCD EMPLOYEES:** No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any FKMCD employee or commissioner, as set forth in Chapter 112.3148, Florida Statutes.

**LICENSES:** The Bidder, at time of Bid, shall possess the correct occupational licenses or other authorizations necessary to supply the abatement materials requested in this Bid package, pursuant to all applicable Federal, State and Local Laws, Statutes, Ordinances, and rules and regulations of any kind.

**SELECTION CRITERIA:** The vendor and product will be selected through a combination of: 1) Pricing 2) Vendor Experience 3) District’s Historical Success with Efficacy 4) Delivery Time 5) Proposed Contract Period

**TERMS OF AWARD:** The pricing submitted by the successful Bidder(s) shall be effective from April 1, 2018, until re-bid (bid period not to exceed three years). For Fyfanon ULV, the effective date shall be June 1, 2018, until re-bid (bid period not to exceed three years).

**DELIVERY:** The Bidder shall state in the space provided on the Bid form a guaranteed maximum delivery time and provide detailed ordering instructions. A current copy of the manufacturer’s Material Safety Data Sheet for the item(s) delivered must be included with each shipment.

**ADDITIONAL INFORMATION:** Questions related to this Bid packet should be directed to:

Rochele Miller  
Florida Keys Mosquito Control District  
5224 College Road  
Key West, FL 33040  
(305)292-7190, ext. 122  
rlmiller@keysmosquito.org

All questions must be in writing and be received no later than three (3) calendar days prior to the March 7th, 2018, Bid acceptance date. Should any questions or responses require revisions to the Request for Proposal as originally published, such revisions will be by formal amendment only.
BID SPECIFICATIONS FOR
Dibrom Concentrate

General: The purpose of these specifications is to describe the abatement material of desired quality. The price quoted shall be the net cost (product, shipping, etc…) to the District. You must submit an EPA approved label and MSDS for all pesticides.

Limits: This proposal shall be effective from April 1, 2018, until re-bid (bid period not to exceed three years). The District shall requisition the material as needed. The proposal shall be for approximately one thousand (1,000) gallons of Dibrom Concentrate per calendar year, containing not less than 87.4% actual Naled. The product must be registered with the EPA for mosquito control and registered for use in Florida.

Quality: **Dibrom Concentrate**

- Active Ingredient: Naled (1, 2-Dibromo-2, 2-Dichlorethyl Dimethylphosphate) 87.4%
- Other Ingredients: 12.6%

Proposal: The undersigned, as Bidder, does declare that this proposal is made in accordance with these specifications, and that no other persons other than the Bidder herein named has any interest in the proposal or in the contract to be taken, and that it is made without any connection with any other person or persons making proposal for the same abatement materials, and is in all other respects fair and without collusion or fraud. The undersigned further declares that he will furnish the necessary materials in accordance with these specifications and the prices stated shall remain in effect throughout the bid period as defined above.

**Dibrom Concentrate**

<table>
<thead>
<tr>
<th></th>
<th>Packaging</th>
<th>Cost per gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>One Year Pricing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300 gal. or less</td>
<td>30 gallon drum</td>
<td>$</td>
</tr>
<tr>
<td>More than 300 gal.</td>
<td>30 gallon drum</td>
<td>$</td>
</tr>
<tr>
<td><strong>Multi-Year Pricing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300 gal. or less</td>
<td>30 gallon drum</td>
<td>$</td>
</tr>
<tr>
<td>More than 300 gal.</td>
<td>30 gallon drum</td>
<td>$</td>
</tr>
</tbody>
</table>

Approximate # of Days from Order Placement to Delivery: ____________

Individual/Partnership/Corporation (strike out word/s not applicable).

Company: ____________________________ By: ____________________________

Email: ____________________________ Phone: ____________________________

Address: ____________________________

Contact Person: ____________________________

Phone No. for Ordering: ____________________________ (attach ordering information, if necessary)
Bid Specifications for
Fyfanon ULV

General: The purpose of these specifications is to describe the abatement material of desired quality. The price quoted shall be the net cost (product, shipping, etc…) to the District. You must submit an EPA approved label and MSDS for all pesticides.

Limits: This proposal shall be effective from June 1, 2018, until re-bid (bid period not to exceed three years). The District shall requisition the materials as needed. The proposal shall be for approximately one thousand (1,000) gallons of Fyfanon ULV per calendar year, containing not less than 96.5% actual malathion. The product must be registered with the EPA for mosquito control and registered for use in Florida.

Quality: Fyfanon ULV

  Active Ingredient: Malathion, 96.5%
  Other Ingredients: 3.5%

Proposal: The undersigned, as Bidder, does declare that this proposal is made in accordance with these specifications, and that no other persons other than the Bidder herein named has any interest in the proposal or in the contract to be taken, and that it is made without any connection with any other person or persons making proposal for the same abatement materials, and is in all other respects fair and without collusion or fraud. The undersigned further declares that he will furnish the necessary materials in accordance with these specifications and the prices stated shall remain in effect throughout the bid period as defined above.

Fyfanon ULV

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<tr>
<td>Option (1)</td>
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</tr>
<tr>
<td>Option (2)</td>
<td>260 gallon tote</td>
<td>$</td>
</tr>
<tr>
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<td></td>
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Approximate # of Days from Order Placement to Delivery: ____________

Individual/Partnership/Corporation (strike out word/s not applicable).

Company: ___________________________ By: ___________________________

Email: ___________________________ Phone: ___________________________

Address: _______________________________________________________

_________________________________________________________________

Contact Person: ___________________________

Phone No. for Ordering: ___________________________ (attach ordering information, if necessary)
**THE FABULOUS FLORIDA KEYS**

**BID SPECIFICATIONS FOR**

**Permethrin 30%, Piperonyl Butoxide 30%**

**General:** The purpose of these specifications is to describe the abatement material of desired quality. The price quoted shall be the net cost (product, delivery, pickup, etc…) to the District. You must submit an EPA approved label and MSDS for all pesticides.

**Limits:** This proposal shall be effective from April 1, 2018, until re-bid (bid period not to exceed three years). The District shall requisition the materials as needed. The proposal shall be for approximately one thousand, five hundred (1,500) gallons of an adulticide product per calendar year, containing not less than 30% permethrin and 30% piperonyl butoxide. The product must be delivered in a 55 gallon drum or a stainless steel returnable mini-tote (capacity: 275 gallons). All mini-bulks must include tamper resistant seals for product safety. Delivery must be within five (5) days of order placement. The product must be registered with the EPA for mosquito control and registered for use in Florida.

**Quality:** **Permethrin 30%, Piperonyl Butoxide 30%**

Active Ingredients: Permethrin (30%) and Piperonyl Butoxide (30%)
Other Ingredients: 40%

**Proposal:** The undersigned, as Bidder, does declare that this proposal is made in accordance with these specifications, and that no other persons other than the Bidder herein named has any interest in the proposal or in the contract to be taken, and that it is made without any connection with any other person or persons making proposal for the same abatement materials, and is in all other respects fair and without collusion or fraud. The undersigned further declares that he will furnish the necessary materials in accordance with these specifications and the prices stated shall remain in effect throughout the bid period as defined above.

**Permethrin 30%, Piperonyl Butoxide 30%**

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</tr>
<tr>
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<td>275 gallon tote</td>
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</tr>
<tr>
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Approximate # of Days from Order Placement to Delivery: ____________

**Individual/Partnership/Corporation (strike out word/s not applicable).**

Company: _______________________________ By: _______________________________
Email: _________________________________ Phone: _______________________________
Address: __________________________________________
____________________________________________________
____________________________________________________
Contact Person: _______________________________
Phone No. for Ordering: ________________________ (attach ordering information, if necessary)
287.133 PUBLIC ENTITY CRIME; DENIAL OR REVOCATION OF THE RIGHT TO TRANSACT BUSINESS WITH PUBLIC ENTITIES.

(1) As used in this section:
(a) “Affiliate” means:
1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
(b) “Convicted” or “conviction” means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
(c) “Convicted vendor list” means the list required to be kept by the department pursuant to paragraph (3)(d).
(d) “Department” means the Department of Management Services.
(e) “Person” means any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
(f) “Public entity” means the State of Florida, any of its departments or agencies, or any political subdivision. (g) “Public entity crime” means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

(2)(a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

(b) A public entity may not accept any bid, proposal, or reply from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months following the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with a person at the time of the commission of a public entity crime resulting in that person being placed on the convicted vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person’s name appears on the convicted vendor list.

(3)(a) All invitations to bid, requests for proposals, and invitations to negotiate, as defined in s. 287.012, and any contract document described by s. 287.058 shall contain a statement informing persons of the provisions of paragraph (2)(a).

(b) Any person must notify the department within 30 days after a conviction of a public entity crime applicable to that person or to an affiliate of that person. Any public entity which receives information that a person has been convicted of a public entity crime shall transmit that information to the department in writing within 10 days.
(c) If the department has reason to believe that a person or an affiliate has been convicted of a public entity crime, the department may issue a written demand upon that person or affiliate, concerning any such conviction or affiliation, to appear and be examined under oath, to answer interrogatories under oath, or to produce documents or other tangible evidence for inspection and copying. The department shall conduct any such inquiry in accord with applicable provisions of the Florida Rules of Civil Procedure.

(d) The department shall maintain a list of the names and addresses of those who have been disqualified from the public contracting and purchasing process under this section. The department shall publish an initial list on January 1, 1990, and shall publish an updated version of the list quarterly thereafter. The revised quarterly lists shall be electronically posted. Notwithstanding this paragraph, a person or affiliate disqualified from the public contracting and purchasing process pursuant to this section shall be disqualified as of the date the final order is entered.

(e) 1. Upon receiving reasonable information from any source that a person has been convicted, the department shall investigate the information and determine whether good cause exists to place that person or an affiliate of that person on the convicted vendor list. If good cause exists, the department shall notify the person or affiliate in writing of its intent to place the name of that person or affiliate on the convicted vendor list, and of the person’s or affiliate’s right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person or affiliate does not request a hearing, the department shall enter a final order placing the name of the person or affiliate on the convicted vendor list. No person or affiliate may be placed on the convicted vendor list without receiving an individual notice of intent from the department.

2. Within 21 days of receipt of the notice of intent, the person or affiliate may file a petition for a formal hearing pursuant to ss. 120.569 and 120.57(1) to determine whether it is in the public interest for that person or affiliate to be placed on the convicted vendor list. A person or affiliate may not file a petition for an informal hearing under s. 120.57(2). The procedures of chapter 120 shall apply to any formal hearing under this section except where they are in conflict with the following provisions:
   a. The petition shall be filed with the department. The department shall be a party to the proceeding for all purposes.
   b. Within 5 days after the filing of the petition, the department shall notify the Division of Administrative Hearings of the request for a formal hearing. The director of the Division of Administrative Hearings shall, within 5 days after receipt of notice from the department, assign an administrative law judge to preside over the proceeding. The administrative law judge, upon request by a party, may consolidate related proceedings.
   c. The administrative law judge shall conduct the formal hearing within 30 days after being assigned, unless otherwise stipulated by the parties.
   d. Within 30 days after the formal hearing or receipt of the hearing transcript, whichever is later, the administrative law judge shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. Such final order shall place or not place the person or affiliate on the convicted vendor list.
   e. The final order of the administrative law judge shall be final agency action for purposes of s. 120.68.
   f. At any time after the filing of the petition, informal disposition may be made pursuant to s. 120.57(4). In that event, the administrative law judge shall enter a final order adopting the stipulation, agreed settlement, or consent order.

3. In determining whether it is in the public interest to place a person or affiliate on the convicted vendor list, the administrative law judge shall consider the following factors:
   a. Whether the person or affiliate committed a public entity crime.
   b. The nature and details of the public entity crime.
   c. The degree of culpability of the person or affiliate proposed to be placed on the convicted vendor list.
   d. Prompt or voluntary payment of any damages or penalty as a result of the conviction.
   e. Cooperation with state or federal investigation or prosecution of any public entity crime, provided that a good faith exercise of any constitutional, statutory, or other right during any portion of the investigation or prosecution of any public entity crime shall not be considered a lack of cooperation.
   f. Disassociation from any other persons or affiliates convicted of the public entity crime.
   g. Prior or future self-policing by the person or affiliate to prevent public entity crimes.
   h. Reinstatement or clemency in any jurisdiction in relation to the public entity crime at issue in the proceeding.
   i. Compliance by the person or affiliate with the notification provisions of paragraph (b).
j. The needs of public entities for additional competition in the procurement of goods and services in their respective markets.

k. Mitigation based upon any demonstration of good citizenship by the person or affiliate.

4. In any proceeding under this section, the department shall be required to prove that it is in the public interest for the person to whom it has given notice under this section to be placed on the convicted vendor list. Proof of a conviction of the person or that one is an affiliate of such person shall constitute a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list. Prompt payment of damages or posting of a bond, cooperation with investigation, and termination of the employment or other relationship with the employee or other natural person responsible for the public entity crime shall create a rebuttable presumption that it is not in the public interest to place a person or affiliate on the convicted vendor list. Status as an affiliate must be proven by clear and convincing evidence. If the administrative law judge determines that the person was not convicted or is not an affiliate of such person, that person or affiliate shall not be placed on the convicted vendor list.

5. Any person or affiliate who has been notified by the department of its intent to place his or her name on the convicted vendor list may offer evidence on any relevant issue. An affidavit alone shall not constitute competent substantial evidence that the person has not been convicted or is not an affiliate of a person so convicted. Upon establishment of a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list, that person or affiliate may prove by a preponderance of the evidence that it would not be in the public interest to put him or her on the convicted vendor list, based upon evidence addressing the factors in subparagraph 3.

(f)1. A person on the convicted vendor list may petition for removal from the list no sooner than 6 months from the date a final order is entered disqualifying that person from the public purchasing and contracting process pursuant to this section, but may petition for removal at any time if the petition is based upon a reversal of the conviction on appellate review or pardon. The petition shall be filed with the department, and the proceeding shall be conducted pursuant to the procedures and requirements of this subsection.

2. A person may be removed from the convicted vendor list subject to such terms and conditions as may be prescribed by the administrative law judge upon a determination that removal is in the public interest. In determining whether removal would be in the public interest, the administrative law judge shall give consideration to any relevant factors, including, but not limited to, the factors identified in subparagraph (e)3. Upon proof that a person’s conviction has been reversed on appellate review or that he or she has been pardoned, the administrative law judge shall determine that removal of the person or an affiliate of that person from the convicted vendor list is in the public interest.

3. If a petition for removal is denied, the person or affiliate may not petition for another hearing on removal for a period of 9 months after the date of denial, unless the petition is based upon a reversal of the conviction on appellate review or a pardon. The department may petition for removal prior to the expiration of such period if, in its discretion, it determines that removal would be in the public interest.

4. The conviction of a person for a public entity crime, or placement on the convicted vendor list, shall not affect any rights or obligations under any contract, franchise, or other binding agreement which predates such conviction or placement on the convicted vendor list. However, the administrative law judge in a proceeding instituted under this section may declare voidable any specific contract, franchise, or other binding agreement entered into after July 1, 1989, by a person placed on the convicted vendor list and a public entity, but only if the administrative law judge finds as fact that the person to be placed on the list has not satisfied the criteria set forth in sub-subparagraphs (3)(e)3.d., f., and g.

5. The provisions of this section do not apply to any activities regulated by the Florida public Service Commission or to the purchase of goods or services made by any public entity from the Department of Corrections, from the nonprofit corporation organized under chapter 946, or from any accredited nonprofit workshop certified under ss. 413.032-413.037.

History.—s. 2, ch. 89-114; s. 1, ch. 90-33; s. 32, ch. 90-268; s. 259, ch. 92-279; s. 55, ch. 92-326; s. 217, ch. 95-148; s. 33, ch. 95-196; s. 4, ch. 95-420; s. 62, ch. 96-410; s. 58, ch. 99-13; s. 29, ch. 2002-207.
SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a),
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to ________________________________
   (print name of the public entity)
   by ________________________________
   (print individual’s name and title)
   for ________________________________
   (print name of entity submitting sworn statement)

   whose business address is ________________________________ and (if applicable) its Federal Employer Identification Number (FEIN) is ________________________________ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: ________________________________).

2. I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that “convicted” or “conviction” as defined in paragraph 287.133 (1) (b), Florida Statutes, means a finding of guilt of a conviction of public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment of information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133 (1) (a), Florida Statutes, means:
   1. A predecessor or successor of a person convicted of a public entity crime; or
   2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a “person” as defined in Paragraph 287.133 (1) ©, Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, member, and agents who are active in management of an entity.
Based on information and belief, that statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with any convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting the sworn statement on the convicted vendor list. (Attached a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

______________________________
(Signature)

______________________________
(Date)

STATE OF ________________________________

COUNTY OF ______________________________

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

Who, after first sworn by me, affixed his/her signature in the space provided

(name of individual signing)

above on this ______ day of ____________, 20___

______________________________
NOTARY PUBLIC

My commission expires:

Form PUR7068 (Rev. 04/10/91)