

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
GENERAL SERVICES DIVISION
OFFICE OF STATE PURCHASING
4200 SURFACE ROAD, COLUMBUS, OH 43228-1395

REQUIREMENTS CONTRACT: BIO-CHEMICAL FIRST RESPONDER KITS

CONTRACT No.: OT905603

EFFECTIVE DATES: 01/01/03 to 09/30/03

The Department of Administrative Services has accepted bids submitted in response to Invitation to Bid No. OT905603 that opened on 09/23/02. The evaluation of the bid response(s) has been completed. The bidder(s) listed herein have been determined to be the lowest responsive and responsible bidder(s) and have been awarded a contract for the items(s) listed. The respective bid response, including the Instructions to Bidders, Contract Terms & Conditions, any bid addenda, special contract terms & conditions, specifications, pricing schedules and any attachments incorporated by reference and accepted by DAS become a part of this Requirements Contract.

This Requirements Contract is effective beginning and ending on the dates noted above unless, prior to the expiration date, the Contract is renewed, terminated or cancelled in accordance with the Contract Terms and Conditions.

This Requirements Contract is available to all State Agencies, State institutions of higher education and properly registered members of the Cooperative Purchasing Program of the Department of Administrative Services, as applicable.

Agencies are eligible to make purchases of the listed supplies and/or services in any amount and at any time as determined by the agency. The State makes no representation or guarantee that agencies will purchase the volume of supplies and/or services as advertised in the Invitation to Bid.

SPECIAL NOTE: State agencies may make purchases under this Requirements Contract up to \$2500.00 using the state of Ohio payment card. Any purchase that exceeds \$2500.00 will be made using the official state of Ohio purchase order (ADM-0523). Any non-state agency, institution of higher education or Cooperative Purchasing member will use forms applicable to their respective agency.

Questions regarding this and/or the Requirements Contract may be directed to:

Donald J. McClure
don.mcclure@das.state.oh.us

This Requirements Contract and any Amendments thereto are available from the DAS website at the following address:



<http://www.ohio.gov/procure>

Signed: _____
C. Scott Johnson, Director Date

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INSTRUCTIONS TO BIDDERS

Article I-1. Complete Competitive Sealed Bid with Authorized Signature. Bidders must submit a complete, signed competitive sealed bid, which at a minimum should include all of the pages of the Invitation to Bid that required the bidder to respond and any additional information or samples required by the Invitation to Bid. Bids should be signed, in ink (blue is preferred), on the front page of the Invitation to Bid. Bidders are requested not to use black ink to sign the Bid.

Article I-2. Delivery of Bids.

I-2.1 When Bids may be Delivered. The Department of Administrative Services ("DAS") must receive bids no later than 12:00 p.m. the day the bids are scheduled for opening. DAS receives bids during the hours of 8:00 a.m. through 4:30 p.m., Monday through Friday, except state observed holidays. DAS does not accept bids with insufficient postage or collect on delivery.

I-2.2 Where Bids must be Delivered. Bids must be delivered to the following address:

Department of Administrative Services
General Services Division, Office of State Purchasing
ATTN.: Bid Desk
4200 Surface Rd.
Columbus, OH 43228-1395

I-2.3 How Bids May be Delivered. Each bid must be submitted in a sealed envelope with the bid number clearly marked on the outside of the envelope. If a bidder uses an express mail or courier service, the bid number must be clearly marked on the express mail or courier envelope or must be enclosed in a sealed envelope inside the express mail or courier service envelope, with the bid number clearly marked on the inside envelope. A bid that is not properly and clearly marked and is inadvertently opened before the scheduled bid opening time, may not be evaluated for contract award.

Article I-3. Bids are a Public Record.

I-3.1 Interested bidders may attend the opening of the bids.

I-3.2 After bids are opened and certified by the Auditor of State, they are available for public review by interested parties who have registered with the bid desk to review the bids. Once bids have been reviewed, they will be forwarded to the buyer/analyst to begin the evaluation and award process.

I-3.3 After bids are opened they are public records as defined in Ohio Revised Code 149.43 and are subject to all laws appurtenant thereto.

Article I-4. Interpretation of Bid Specifications:

I-4.1 Bidder May Request Clarification. If a bidder discovers an inconsistency, error or omission in this Invitation to Bid, the bidder should request clarification from State Purchasing as indicated on the front page of the Invitation to Bid. Such clarification may be made only by letter, or through internet and addressed to the State Purchasing Administrator. Bidders should make their requests for clarification a minimum of five (5) working days before the date of bid opening. No other form of clarification is acceptable. Failure of Bidder to comply may result in the Bidder being deemed not responsive.

I-4.2 DAS Modifications through Written Addendum. When it is necessary to modify an Invitation to Bid, DAS does so by written addendum only.

I-4.3 Damages Arising from Bid Specifications. A bidder may not be compensated for damages arising from inaccurate or incomplete information in the Invitation to Bid specifications or from inaccurate assumptions based upon the specifications.

Article I-5. Evaluation of Bids

The contract will be awarded to the lowest responsive and responsible bidder as determined by DAS under the Ohio Revised Code (the "Code"). To protect the integrity of the competitive bid process, bids will be closed for public review once the evaluation and award process begins.

I-5.1 Lowest Bidder. A bidder is lowest if its bid offers the lowest-cost supply or service in comparison to all other bidders as set forth in the evaluation paragraph in the bid. While bidders may offer discounts for prompt payment and other similar incentives, discounts and incentives will not be used to determine the lowest bidder.

I-5.2 Responsive Bidder. A bidder is responsive if its bid responds to the bid specifications in all material respects and contains no irregularities or deviations from the specifications that would affect the amount of the bid or otherwise give the bidder an unfair competitive advantage.

I-5.3 Responsible Bidder. DAS' determination of a bidder's responsibility includes the following factors:

- (A) the experience of the bidder,
- (B) the bidder's financial condition,
- (C) the bidder's conduct and performance on previous contracts,
- (D) the bidder's facilities,
- (E) the bidder's management skills, and
- (F) the bidder's ability to execute the contract properly.
- (G) review of Federal and the Ohio Department of Transportation debarment list.

I-5.4 Preference for Ohio Products. The bid award may be subject to the domestic preference provisions of the Buy America Act, 41 U.S.C.A., 10a-10d, as amended, and to the preference for Ohio products under Ohio Revised Code Sections 125.09 and 125.11 and Ohio Administrative Code Rule 123:5-1-06.

I-5.5 Tie Bids. If two or more bidders offer the same cost and both are determined to be responsive and responsible, DAS may break the tie with the flip of a coin. DAS may assign "heads" and "tails" to the bidders. The coin flip may be conducted in the presence of the bidders, if they elect to be present, and is the final determination of the lowest, responsive and responsible bidder.

I-5.6 Rejected Bids. DAS may reject any bid, in whole or in part, if any of the following circumstances are true:

- (A) bids offer supplies or services that are not in compliance with the requirements, specifications, terms or conditions stated in the Invitation to Bid,
- (B) the price of the lowest responsive and responsible bid is excessive in comparison with market conditions or with the purchasing agency's available funds, or
- (C) DAS determines that awarding any item is not in the best interest of the State of Ohio.

I-5.7 Unit Costs. Bidders shall not insert a unit cost of more than three (3) digits to the right of the decimal point. Digit(s) beyond three (3) will be dropped and not used in the evaluation of the Bid.

Article I-6. Withdrawal of Bids

I-6.1 Withdrawal before Bid Opening. A bidder may withdraw its bid, by written request, any time after DAS receives the bid and before bid opening.

I-6.2 Withdrawal after Bid Opening. A bidder may by written request withdraw its bid after bid opening, if there is reasonable proof that an inadvertent mistake was made and the correction cannot be determined with reasonable certainty. "Inadvertent" means inattentive or unobservant; heedless; due to oversight; unintentional. If DAS suspects that the lowest bid contains a mistake, DAS may ask the bidder for written confirmation of its bid.

Article I-7. Correction of Bids

I-7.1 Correction before Bid Opening. If a bidder withdraws its bid and resubmits it with revisions, the revisions should be clearly identified and signed or initialed by the bidder. The omission of a bidder's signature or initials to a modification may result in the bid being determined to be not responsive. Any corrections must be completed off the premises.

I-7.2 Correction after Bid Opening. DAS may permit a bidder alleging an inadvertent error to correct its bid, after opening, only if the mistake and the correction are clearly evident from the bid and correction does not otherwise give the bidder an unfair competitive advantage.

Article I-8. Bids are Firm for 90 Days. Unless stated otherwise, once opened all bids are irrevocable for ninety (90) days. Beyond ninety (90) days, bidder will have the option to honor their Bid or make a written request to withdraw their Bid from consideration.

Article I-9. Requests for Revisions or Additions to the Contract: Bidders are required to comply with all of the terms and conditions of the Invitation to Bid, whether the bidder had

actual knowledge of the terms and conditions of the Invitation to Bid and regardless of any statement or omission in the bid that might indicate a bidder's contrary intention. DAS will not agree to any additional or inconsistent terms or conditions proposed by the bidder. The terms and conditions of the Invitation to Bid prevail over any inconsistent or additional terms or conditions of the bid proposed by the bidder.

Article I-10. Information Requested: DAS may request additional information to evaluate a bidder's responsiveness to the Invitation to Bid or to evaluate a bidder's responsibility. If a bidder does not provide the requested information, it may adversely impact DAS' evaluation of the bidder's responsiveness or responsibility.

Article I-11. Samples: DAS may require bidders, by Invitation to Bid or by request during evaluation, to provide sample supplies or equipment or examples of work, at the bidder's expense. Samples must clearly identify the bidder, the bid number, and the item the sample represents in the bid. DAS will return samples that are not destroyed by testing, at the bidder's expense, upon the bidder's timely request. DAS may keep the samples of the bidder awarded the contract until the completion of the contract. Unsolicited samples submitted in response to this Invitation to Bid will not be evaluated and DAS may dispose of them in any way it chooses.

Article I-12. Bid Preparation. The State of Ohio assumes no responsibility for costs incurred by the bidder prior to the award of any Contract resulting from this Bid. Total liability of the State is limited to the terms and conditions of a resulting Contract.

Article I-13. Protests and Communications During Evaluation. Any bidder, who is not in agreement with the competitive bidding process used to make the award may file a protest. The protest must be timely and submitted in writing to the State Purchasing Administrator. Any attempt by the bidder, the bidder's agent(s), or any party representing the bidder to file a protest with any entity of the State of Ohio other than the Administrator may result in the bidder being deemed as not responsive. During the evaluation process, unless requested by State Purchasing as part of the evaluation process, any attempt on the part of the bidder, the bidder's agent(s), or any party representing the bidder, to submit correspondence that is determined by DAS to be an attempt to compromise the impartiality of the evaluation or any attempt on the part of the bidder, the bidder's agent(s), or any party representing the bidder to communicate with any member of the State regarding the evaluation process may be grounds for immediate disqualification of the bidder. A determination to stay the proceedings or reverse an award determination will be at the sole discretion of the State Purchasing Administrator. The decision of the Administrator shall be final and conclusive unless any person adversely affected by the decision commences an action in a court of law.

Article I-14. Ethics. All bidders and employees of the Office of State Purchasing are bound by the Ethics Laws of the State of Ohio. Any bidder or employee who violates any of these laws will be subject to penalties set forth by law.

Article I-15. Registration with the Secretary of State, when applicable, by the signature affixed to this Bid, the bidder attests that the Bidder is:

- (A) an Ohio corporation that is properly registered with the Ohio Secretary of State; or
- (B) a foreign corporation, not incorporated under the laws of the state of Ohio, but is registered with the Ohio Secretary of State pursuant to Ohio Revised Code Section 1703.03; or
- (C) a foreign corporation, not incorporated under the laws of the state of Ohio, and that is not registered with the Ohio Secretary of State pursuant to Ohio Revised Code Sections 1703.02 and 1703.03 (as applicable to interstate commerce).

Article I-16. Certification Regarding Contract Eligibility With Other Governmental Entities: By the signature affixed on Page 1, Bidder hereby certifies that Bidder has not, within the last seven (7) years been the subject of any government action to limit the Bidder's right to do business with the government within the last seven (7) years, please provide a written explanation with the bid response.

Article I-17. Non-Collusion Certification: By the signature affixed on Page one (1) of the Bid, the Bidder certifies that he/she is (sole owner, partner, president, secretary, etc.) of the party making the forgoing bid; that such bid is genuine and not collusive or sham; that bidder has not colluded, conspired or agreed, directly or indirectly, with any bidder or person, to put in a sham bid; or colluded or conspired to have another not bid and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the bid price of its bid or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against any bidder or any person or persons interested in the proposed contract and that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted this bid, or the contents thereof, or divulged any related information or data to any association or to any member or agent of any association.

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CONTRACT TERMS AND CONDITIONS

Article K-1. Contract Components; Entirety; Changes; Interpretation.

K-1.1 Contract Components. This Contract consists of the complete Invitation to Bid, including the Instructions to Bidders, the Contract Terms and Conditions, the Special Contract Terms and Conditions, the bid specifications and any written amendments to the Invitation to Bid; the completed competitive sealed bid, including proper modifications, clarifications and samples; and applicable, valid State of Ohio purchase orders or other ordering documents ("Contract").

K-1.2 Entire Agreement; Parties to the Contract. This Contract is the entire agreement between the contractor ("Contractor") and the Department of Administrative Services ("DAS") on behalf of the State agencies that may purchase from this Contract. The State agencies that may purchase from this Contract are listed on the front page of the Invitation to Bid as "Participating State Agencies."

K-1.3 Contract Changes; Waiver. Changes or modifications to this Contract must be made in writing and signed by both parties. If a party to this Contract does not demand strict performance of any term of this Contract, the party has not waived or relinquished any of its rights; the party may at any later time demand strict and complete performance of the term.

Article K-2. Contract Orders. Participating state agencies will order supplies or services under this Contract from the Contractor directly. The Contractor may receive orders made by participating state agencies by telephone, facsimile, electronically, in person, debit order or by State of Ohio purchase order (ORDE) from authorized employees of the participating agency. The State will not be responsible for orders placed by unauthorized employees. Contractor is not required to fill an order with a delivery date that is more than 30 days beyond the date of Contract expiration, termination or cancellation, unless the Contract provides for quarterly deliveries. Under a Contract that provides for quarterly deliveries, Contractor is not required to fill an order with a delivery date that is more than 90 days beyond the date of Contract expiration, termination or cancellation.

Article K-3. Standard Invoice & Payment

K-3.1 Invoice. The Contractor shall submit an invoice to the ordering agency upon shipment of the supplies or performance of the service as described on the purchase order. Except when using Electronic Data Interchange (EDI) processes and unless otherwise requested by the ordering agency, the invoice must be in quadruplicate. The invoice must be a "proper invoice" to receive consideration for payment. A "proper invoice" is defined as being free of defects, discrepancies, errors, or other improprieties. Improper invoices will be returned to the Contractor noting the areas of discrepancy.

K-3.2 Compensation. In consideration for Contractor's performance each participating state agency will pay Contractor directly at the rate specified in the Contract. Payments may be made by the Ohio Payment Card, an Auditor of State warrant or by electronic funds transfer (EFT). For all transactions the Contractor must have a valid W-9 form on file with the Office of Budget and Management. In addition, for purchases of services, Contractor must also be registered with the Office of Budget and Management's (OBM) vendor database. Registration in OBM's database requires the Contractor to complete an IRS W-9 Form. The completed original form should be mailed to: Office of Budget and Management, Vendor Compliance Section, 30, East Broad Street, 34th Floor, Columbus, OH 43215.

K-3.3 Ohio Payment Card. Participating state agencies purchasing supplies from the Contract may use the Ohio Payment Card. Such purchases may not exceed \$2,500 unless the Office of Budget & Management has approved the agency to exceed this limit. In the event that OBM increases the dollar limit for payment cards for all state agencies, notice of such increase will be posted on the State Purchasing website. Participating state agencies are required to use the Ohio Payment Card in accordance with the Ohio, Office of Budget and Management's current guidelines for the Ohio Payment Card and the participating agency's approved plan filed with the Office of Budget of Management. Contractor may process a payment in the payment card network only upon delivery and acceptance of the supplies or services ordered. For partial deliveries or performance, Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the participating agency. Upon completion of the delivery of remaining supplies or services, Contractor may process a payment request in the payment card network for the remainder of the order. Contractor will receive payment through its merchant bank within the time frame agreed upon between Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

K-3.4 Payment Due Date. Each participating state agency must make payments under this Contract no later than the 30th calendar day from the day it receives an invoice, that conforms to the State's current policy, for the supplies or services it has accepted. The participating agency may only process an invoice for payment after delivery and acceptance of the ordered supplies or services has transpired.

K-3.5 Interest on Overdue Payments. Participating state agencies will determine and pay interest for overdue payments on proper invoices in accordance with Section 126.30 of the Revised Code.

K-3.6 Taxes: Participating state agencies are exempt from all federal, state and local taxes. Participating state agencies will not pay any taxes on supplies or services purchased from Contractor, unless the Special Contract terms and conditions specifically state otherwise.

Article K-4. Time of Performance.

K-4.1 Term of Contract. This Contract is effective upon the projected beginning date on the Invitation to Bid cover page or upon signature of DAS whichever is later in time. This Contract will remain in effect until the projected ending date on the Invitation to Bid cover page or until the Contract is fully performed by both parties or until it terminates in accordance with the Ohio constitutional or statutory limitations in this Article, Section K4.3, or until it is canceled or terminated in accordance with Article K-6, whichever occurs first.

K-4.2 Contract Renewal. This Contract may be renewed solely at the discretion of DAS for a period of one month. Any further renewals will be by agreement any number of times for any period of time. The cumulative time of all renewals may not exceed two years.

K-4.3 Constitutional and Statutory Limitations:

(A) Appropriation may not be longer than two years. State contracts may not extend beyond a biennium. If the term of this Contract extends beyond a biennium, the Contract will terminate on the last day of the current biennium. At that time, DAS may renew this Contract by letter to Contractor no later than July 1, of the new biennium. The operating biennium expires June 30th of each odd-numbered calendar year.

(B) Appropriation of Funds. The State of Ohio's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments or any other obligations due by the State under this Contract, the State will be released from its obligations on the date funding expires.

(C) Certification of Funds. Under Revised Code Section 126.07, any purchase order (ORDE) placed under this Contract is not valid unless and until the Director of the Ohio Office of Budget and Management certifies that there is a balance in the appropriation not already obligated to pay existing commitments.

Article K-5. Delivery.

K-5.1 F.O.B. The Place of Destination. Contractor must provide supplies or services under this Contract F.O.B. the place of destination. The place of delivery will be specified by the participating state agency on the agency's purchase order or other ordering document. Freight will be prepaid unless otherwise stated.

K-5.2 Time of Delivery. If Contractor is not able to deliver the supplies or services on the date and time specified by the participating state agency on the agency's ordering document, Contractor must coordinate an acceptable date and time for

delivery with the agency. If Contractor is not able to or does not provide the supplies or services to a participating state agency by the date and time provided on the agency's ordering document or by the date and time later agreed upon, the State may obtain any remedy under Article K-6 of this Contract or any other remedy at law.

K-5.3 Minimum Orders-Transportation Charges. For purchase orders placed that are less than the stated minimum order, transportation charges will be prepaid and added to the invoice by the Contractor to the delivery location designated by the ordering agency. Shipment is to be made by private or commercial freight service provider, air, rail, water, parcel post, express or commercial package delivery, whichever is the most economical and expeditious method for proper delivery of the item. Failure of the Contractor to utilize the most economical mode of transportation shall result in the Contractor reimbursing the ordering agency the difference between the most economical mode of transportation and the mode of transportation used by the Contractor. Failure to reimburse the ordering agency shall be considered as a default.

Article K-6. Contract Cancellation; Termination; Remedies.

K-6.1 Contract Cancellation. If Contractor fails to perform any one of its obligations under this Contract, it will be in default and DAS may cancel this Contract in accordance with this section. The cancellation will be effective on the date delineated by DAS.

(A) Contract Performance Substantially Endangered. If Contractor's default is so substantial that it may not be able to be cured within a reasonable time or if DAS determines that the performance of the Contract is substantially endangered through no fault of the State, DAS may cancel this contract by written notice to Contractor.

(B) Cancellation for Unremedied Default. If Contractor's default may be cured within a reasonable time, DAS will provide written notice to Contractor specifying the default and the time within which Contractor must correct the default. If Contractor fails to cure its default within the time required, DAS may cancel the contract by written notice to Contractor. If DAS does not give timely notice of a default to Contractor, DAS has not waived any of the State's rights or remedies concerning the default.

(C) Cancellation for Persistent Default. DAS may cancel this Contract by written notice to Contractor for defaults that are cured, but are persistent. "Persistent" means three or more defaults. After DAS has notified Contractor of its third default, DAS may cancel this Contract without providing Contractor with an opportunity to cure, if Contractor defaults for a fourth time. The four defaults are not required to be related in any way.

(D) Cancellation for Financial Instability. DAS may cancel this contract by written notice to Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.

(E) Cancellation for Delinquency; Violation of Law. DAS may cancel this Contract by written notice, if it determines that Contractor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. However, DAS may not cancel this Contract if Contractor has entered into a repayment agreement with which Contractor is current. DAS also may cancel this Contract, if it determines that Contractor has violated any law during the performance of this Contract.

K-6.2 Contract Termination. DAS may terminate this Contract for convenience with 30 days written notice to Contractor.

K-6.3 Remedies for Default.

(A) Actual Damages. Contractor is liable to the State of Ohio for all actual and direct damages caused by Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Contractor's default, from Contractor.

(B) Liquidated Damages. If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the order, or \$250.00 per day, whichever is less, for every day the default is not cured by Contractor.

(C) Deduction of Damages from Contract Price. The participating state agency may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the contract, with DAS prior written notice to Contractor.

Article K-7. Force Majeure. If the State or Contractor is unable to perform any part its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightening; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; arrests; restraint of government and people; war; strikes; and other like events; or any other cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

Article K-8. Delegation of Duty and Assignment of Rights.

K-8.1 DAS Consent to Delegate. Contractor may not delegate any of its duties under this Contract unless DAS consents to the delegation in writing. DAS' consent to the delegation is not DAS' agreement to release Contractor from its duties under this Contract

K-8.2 DAS Consent to Assign. Contractor may not assign any of its rights under this Contract unless DAS consents to the assignment in writing. Any purported assignment made without DAS' written consent is void. DAS may assert against an assignee any claim or defense DAS may have against the assignor.

K-8.3 Antitrust Assignment to DAS. Contractor assigns to DAS all of its rights to any claims and causes of action the Contractor now has or may acquire under state or federal antitrust laws if the claims or causes of action relate to the supplies or services provided under this Contract. Additionally, the State of Ohio will not pay excess charges resulting from antitrust violations by Contractor's suppliers and subcontractors.

Article K-9. Requirements Contract. The quantity of supplies or services to be provided under this Contract is the quantity determined by the actual, good faith, requirements of the participating state agencies. DAS may allow a participating state agency to purchase supplies or services identical to those provided under this Contract from a supplier other than Contractor, if one of the following conditions apply:

K-9.1. Large quantities. The supplies or services to be purchased were not anticipated by DAS at the time this Contract was let and the supplies or services are required in a large quantity.

K-9.2 Unique or Unusual Nature. The supplies or services to be purchased are unique or unusual from the supplies or services provided under this Contract.

K-9.3 Emergency Purchase. The agency requires the supplies or services to remedy an emergency and Contractor is not able to provide the supplies or services, as the emergency requires.

Article K-10. Subcontracting. Contractor must identify its subcontractors, suppliers and joint ventures for the performance of this Contract. Contractor must supplement its list of subcontractors, suppliers or joint ventures, if Contractor's subcontractors, suppliers or joint ventures change during the term of this contract. The Contractor shall not use any subcontractor who has, within the last seven (7) years been the subject of any government action to limit the subcontractor's right to do business with that government within the last seven (7) years. Please provide a written explanation to DAS. Further, the subcontractor agrees to be bound to all of the Terms and Conditions and specifications of the Contract.

Article K-11. Price Adjustments.

Article K-11. Price Increases. If the Special Contract Terms and Conditions provide for a price increase, Contractor may request a price increase in accordance with the Special Contract Terms and Conditions.

Article K-11.2 Price Decreases. If DAS becomes aware of a general price decrease for the supplies or services provided under Contract, Contractor must provide a price decrease to the State of Ohio. Failure to provide a decrease will be considered as a default.

Article K-12. Equal Employment Opportunity. Contractor must comply with all federal and state laws pertaining to equal employment opportunity, including federal and state executive orders. Contractor will not by reason of race, color, religion, sex, sexual orientation, Vietnam veteran status, age, handicap, national origin, or ancestry, discriminate against any person in the hiring of employees for the performance of work under this Contract. Contractor, Contractor's subcontractors and any other agent acting on behalf of Contractor may not discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex, sexual orientation, Vietnam veteran status, age, handicap, national origin, or ancestry. During the performance of the Contract, Contractor agrees to comply with Revised Code Section 125.11.1(B), Administrative Code Sections 123:1-49-01 through 123:1-49-06 and Executive Order 2001-12T. The Contractor understands the State Equal Opportunity Division may conduct pre-award and post-award compliance reviews to determine if the Contractor maintains nondiscriminatory employment practices, maintains an affirmative action program and is exerting good faith efforts to accomplish the goals of the affirmative action program.

Article K-13. Drug-Free Workplace. Contractor must comply with all applicable state and federal laws regarding a drug free workplace. Contractor must exert good faith efforts to ensure that its employees do not purchase, transfer, and use or possess illegal drugs or alcohol or abuse prescription drugs, in any way, while working on State property.

Article K-14. Survivorship. In addition to Article K-6 Section 6.3, Remedies for Default, of this Contract, the following Articles, Article K-15 through Article K-20, survive the expiration of this Contract.

Article K-15. Indemnification. Contractor will indemnify the State of Ohio, including its public officials and employees, for any and all claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities that may arise out of or are related to Contractor's performance under this Contract including Contractor's employees and agents.

Article K-16. Confidentiality. Contractor may learn of information, documents, data, records, or other material that is confidential in the performance of this Contract. Contractor may not disclose any information obtained by it as a result of the Contract, without written permission from DAS. Contractor must assume that all state information, documents, data, records or other material is confidential.

Article K-17. Publicity. Contractor and its subcontractors may not use or refer to this Contract to promote or solicit Contractor's or subcontractor's supplies or services. Contractor

and its subcontractors may not disseminate information regarding this Contract, unless agreed to in writing by DAS.

Article K-18. Governing Law; Severability. The laws of the State of Ohio govern this Contract, and venue for any dispute will be exclusively with the appropriate court of competent jurisdiction in Franklin County, Ohio. If any provision of the Contract or the application of any provision is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Contract will remain in full force and effect to the extent that the remaining provisions continue to make sense.

Article K-19. Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

Article K-20. Political Subdivisions. This Contract may be relied on by Ohio political subdivisions, including Ohio counties, cities and villages ("Political Subdivisions"). If a political subdivision relies on this Contract to issue a purchase order or other ordering document, the political subdivision steps into the shoes of the State under this Contract. The political subdivision's order and this Contract are between Contractor and political subdivision. The Contractor must look solely to political subdivision for performance, including payment. The Contractor holds the State of Ohio harmless with regard to political subdivision's orders and political subdivision's performance. DAS may cancel this Contract and may seek remedies if Contractor fails to honor its obligations under an order from a political subdivision.

Article K-21. Workers' Compensation. The contractor shall be required to carry Workers' Compensation Liability Insurance as required by Ohio law for any work to be performed within the state of Ohio. If work is done outside of Ohio, the contractor shall be required to carry Workers' Compensation Insurance coverage to meet the laws of the appropriate state(s) where work on the Contract will be done. The contractor may also be required to show proof of Employer's Liability (Stop Gap) coverage with at least a \$1,000,000 limit. Proof of Workers' Compensation coverage will be considered as part of the evaluation process. If not listed in the bid or submitted as part of the bid response, the bidder will be required to provide said certificate within seven (7) calendar days after notification to the Office of State Purchasing. Failure to provide the certificate within the stated time period will result in the bidder being deemed not responsive. Failure to maintain Workers' Compensation Liability Insurance coverage for the duration of the contract and any renewal thereto, will be considered as a default.

Article K-22. Automobile and General Liability Requirements. During the term of the Contract and any renewal thereto, the bidder, and any agent of the bidder, at its sole cost and expense shall maintain a policy of automobile liability and commercial general liability insurance as described in this Article. If not submitted with the bidder's response,

copies of the respective insurance certificates shall be filed with the Office of State Purchasing within seven (7) calendar days after notification. Failure to submit the insurance certificates within this time period will result in the bidder being deemed not responsive. Said certificates are subject to the approval of the Director, Department of Administrative Services and shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the Director, Department of Administrative Services. Failure of the bidder to maintain this coverage for the duration of the Contract and any renewals thereto may be considered as a default.

ALL INSURANCE COMPANIES PROVIDING COVERAGE SHALL BE LICENSED TO DO BUSINESS IN THE STATE OF OHIO AND SHALL BE COVERED BY THE OHIO GUARANTY FUND. In addition, all insuring companies shall have and maintain at least an A- (excellent) rating from A.M. Best.

Article K-22.1 Commercial General Liability. Insurance coverage with a \$2,000,000 annual aggregate and a \$1,000,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the State of Ohio as an Additional Insured, as its interest may appear. The policy shall also be endorsed to include a blanket waiver of subrogation.

The certificate shall be endorsed to reflect a per project/per location General Aggregate limit. If the bidder uses an umbrella/excess policy to meet the required limits, it is understood that the policy shall follow form on a per project/per location basis. It is agreed upon that the bidder's commercial general liability insurance shall be primary over any other coverage. The Office of State Purchasing reserves the right to approve all policy deductibles and levels of self-insured retention.

Article K-22.2. Automobile Liability. Automobile insurance coverage is required for anyone coming onto State property. Any bidder broker or sub-contractor who will be on State Property is required to carry insurance that complies with the State and Federal laws regarding financial responsibility. The minimum is a Combined Single Limit of \$500,000. It is agreed that the bidder's automobile liability insurance shall be primary over any other coverage.

Article K-23. Contract Compliance. The participating state agency will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. If an agency observes any infraction(s), such shall be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the infraction(s), the agency will notify DAS through a Complaint to Vendor (CTV) to help resolve the infraction(s). DAS will apply the provisions of Article K-6, "Contract Terms and Conditions" to resolve the infractions(s).

Article K-24. Quality Assurance. At the option of DAS or the participating agency, samples may be taken from deliveries made and submitted for laboratory tests. The State will bear the cost of testing when samples are found to be in compliance with the Contract. If samples do not conform to the Contract, Contractor will bear the costs of testing and the State will apply the provisions of Article K-6, "Contract Terms and Conditions".

Article K-25. Electronic Commerce Program. The State of Ohio is an active participant in E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State and the contractor by reducing time delays in receiving orders and payments that are associated with the existing manual processes. It is the goal of the State of Ohio to eventually conduct all procurement activities through electronic commerce technologies. Contractor is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with the State of Ohio in the future. The following information is offered to assist all interested businesses in their efforts to move toward becoming a trading partner with the State of Ohio through the electronic commerce technologies. Electronic Data Interchange (EDI) is used for electronic purchase orders, invoicing, and payment of purchases. The program includes sending electronic purchase orders to the Contractor, the receipt of electronic invoices from the Contractor and the transmission of payment and remittance information back to the Contractor. A complete "Implementation Guide", for doing business with the State of Ohio using EDI, can be found on the Internet at: www.state.oh.us/ecedi/. This guide contains all of the information necessary for a company to become EDI compliant. By following all of the links, the entire guide may be viewed, downloaded and printed at your location. In addition, companies who are interested in becoming EDI trading partners with the State of Ohio should visit the Office of Budget and Management's website at [www.state.oh.us/obm/BusinessCommunityPage/eCommerce.a sp](http://www.state.oh.us/obm/BusinessCommunityPage/eCommerce.asp) for additional information regarding E Commerce.

Article K-26. Warranties. Unless otherwise stated, all supplies shall be new and unused and when authorized, recycled or refurbished products. All products shall carry manufacturer warranties. The Contractor warrants all supplies to be free from defects in labor, material and manufacturer and to be in compliance with the Contract specifications.

Article K-27. Usage Reports. At no cost to the State, the Contractor shall be required to provide quarterly, bi-annual or annual usage reports as requested by the Office of State Purchasing. The reports will include information as to purchase activity under the Contract by all participating agencies and Co-Operative Purchasing Program members. Report topics will include, but will not be limited to: customer name, date of purchase, item description, quantity, dollar value, aggregate sales to date for each customer and other such information as requested by the Office of State Purchasing. Electronic media is the preferred method for these reports. Failure to provide the requested reports will be deemed as an event of default.

Article K-28. Return Goods Policy. The State will apply the following Return Goods Policy on all purchases made under the Contract. The bidder acknowledges to have read, understood, and agrees to this Policy.

- (A) Return goods, when due to Contractor error (i.e. over-shipment, defective merchandise, unapproved substitution, etc.) shall be returned to the Contractor, at the Contractor's expense. The Contractor shall make arrangements to remove the return goods from the ordering agency premises within seven (7) calendar days after notification. The Contractor shall not apply any restocking or other charges to the ordering agency. At the option of the ordering agency, replacement items may be accepted and will be shipped within seven (7) calendar days of notification. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the ordering agency will dispose of accordingly.
- (B) For orders of custom manufactured items, the Contractor will provide a production sample of the item to the ordering agency for acceptance. The production sample will be identical to the item to be provided. The ordering agency will provide written acceptance of the item prior to the Contractor continuing with production. Once delivery and acceptance has been completed and the ordering agency determines for any reason that any remaining quantities will not be used, the agency may request the return of the custom manufactured items. Acceptance of the return of custom manufactured items will be at the option of the Contractor. If the Contractor agrees to the return of these items, the agency will be responsible for all costs associated with packaging, shipment and transportation, to include the original shipment to the agency and subsequent return of goods to the location designated by the Contractor. The Contractor may assess restocking fees that are equivalent to restocking fees that are normally assessed to other customers or as published by the Contractor. Failure of the Contractor to provide a production sample and obtain written approval from the ordering agency will result in the Contractor bearing all responsibility and costs associated with the return of these goods.
- (C) Return goods of regular catalog stock merchandise, when due to agency error (i.e. over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the agency within six (6) months of delivery and acceptance. All items to be returned must be unused and in their original containers and in suitable condition for resale. The ordering agency will be responsible for all transportation costs associated with both the original shipment of items to the agency and the subsequent return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee associated with the return of the items to the location designated by the Contractor. The Contractor may assess a restocking fee not to exceed their standard published restocking fee or equivalent restocking fee that is assessed to other customers of the Contractor. Return of regular

stock catalog merchandise, when delivery and acceptance exceed six (6) months will be at the option of the Contractor.

Article K-29. Product Recall. In the event product delivered has been recalled, seized, or embargoed and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption by the packer, processor, manufacturer or by any State or Federal regulatory agency, the Contractor shall be responsible to notify DAS-State Purchasing and all ordering agencies/entities within two business days after notice has been given. Contractor shall, at the option of the ordering agency, either reimburse the purchase price or provide an equivalent replacement product at no additional cost. Contractor shall be responsible for removal and/or replacement of the affected product within a reasonable time as determined by the ordering agency. At the option of the ordering agency, Contractor may be required to reimburse storage and/or handling fees to be calculated from time of delivery and acceptance to actual removal. Contractor will bear all costs associated with the removal and proper disposal of the affected product. Failure to reimburse the purchase price or provide equivalent replacement product will be considered a default.

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BRAND SPECIFIC: The Tyvek Coveralls specified in this bid are being bid as Brand Specific. That signifies that no alternates will be accepted for award. Bid is in accordance with the Ohio Administrative Code 123:5-1-10 (I). The Carrying Bag, Mask, Filter Canister, Mask Carrier, Disposable Butyl Gloves, Disposable Rubber Boot Covers, Duct Tape and Disposable Plastic Bags are not Brand Specific.

AMENDMENTS TO CONTRACT TERMS AND CONDITIONS: The following Amendments to the Contract Terms and Conditions do hereby become a part hereof. In the event that an amendment conflicts with the Contract Terms and Conditions, the Amendment will prevail.

DELIVERY AND ACCEPTANCE: Supplies will be delivered to the participating agency within the delivery noted on Page 14, Bidder Requirements and Page 16, Delivery and after receipt of order and, in accordance with Article K-5, of the Contract Terms and Conditions. The delivery location will be noted on the purchase order issued by the participating agency. Acceptance (transfer of title) will occur upon the inspection and written confirmation by the ordering agency that the supplies delivered conform to the requirements set forth in the Contract. Unless otherwise provided in the Contract, acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistakes as amount to fraud.

AUTHORIZED DEALER STATEMENT: Bidders responding to this bid must be an authorized dealer or manufacturer of the products bid. Bidders should submit a letter with their bid response certifying that they are the manufacturer or an authorized dealer of the manufacturer for all products bid. This certification must be on the manufacturer's letterhead and must be signed by a duly authorized representative of the manufacturer. The bidder will be required to provide the said certification letter within five (5) business days, after notification, to the Office of State Purchasing. Failure to submit the certification letter within the stated time period will result in the bidder being deemed as not responsive.

NOTE: The manufacturer of the Tyvek disposable coveralls may elect to provide a single sample with a certification letter listing all bidders the sample applies to and are authorized to represent the company for this bid. This letter and sample may be sent under separate cover to the Office of State Purchasing, 4200 Surface Road, Columbus, Ohio 43228-1395, Attn: Bid Desk. The bid number and opening date must be showing on the outside of the envelope.

WORKERS' COMPENSATION: See Article K-21, Page 9 of the "Standard Terms and Conditions".

INSURANCE: See Article K-22 and K-22.1, Pages 9-10 of the "Standard Terms and Conditions".

DESCRIPTIVE LITERATURE: The bidder shall submit, as part of their bid response, descriptive literature of the supplies or services being offered. The descriptive literature is to include the price list(s) in effect at the time of bid submission and upon which the bid response is based. The descriptive literature will be used in the evaluation process to determine the lowest responsive and responsible bidder. Any references that may appear in the descriptive literature, that may alter the terms and conditions and specifications of the bid (i.e. F.O.B. Shipping Point or Prices Subject to Change), will not be part of any contract and will be disregarded by the state of Ohio. Failure of the bidder to furnish descriptive literature as part of their bid response will deem the bidder not responsive.

PRODUCT SAMPLES: The bidder shall submit samples of the supplies being offered as part of the bid response. The samples will be used in the evaluation process to determine the lowest responsive and responsible bidder. Failure to provide the samples with the bid response will result in the bidder being deemed not responsive. After award of the contract, the samples will be used as a basis of comparison with actual product delivered under contract. Any variation between the samples and product being delivered will be considered as an event of default. Any variations between the samples and actual product being delivered that are due to manufacturer changes may be acceptable and shall require prior written approval from DAS.

See NOTE under "Authorized Dealer Statement" above.

EVALUATION: Bids will be evaluated in accordance with Article I-5 of the "Instructions to Bidders". In addition, the state will evaluate this bid based upon the price per Bio-Chemical First Responder Kit with all listed components included and the total sum of the individual item pricing. To arrive at the lowest responsive bidder, both numbers will be added together to determine the final price submitted for award.

CONTRACT AWARD: The contract will be awarded to the lowest responsive and responsible bidder meeting or exceeding the specifications contained in this ITB. No other brands of product will be acceptable for the bio-chemical protective coveralls. The carrying bag; mask; filter; mask carrier; gloves; boot covers; duct tape; and plastic bags will be awarded in accordance with the specifications on pages 16, 17 and 18 of this ITB.

NOTE: To be considered for award, all items, the kit and the individual items on page 20, must be bid.

CONTRACT RENEWAL: This contract may be renewed for one (1) month, at the state's option. Additionally, this contract may be renewed, by agreement, any number of times for any period of time under the same prices, terms and conditions stated herein. The cumulative total of all renewals by agreement may not exceed three (3) years.

LIABILITY: The state of Ohio, the Ohio Department of Public Safety and the Department of Administrative Services assume no liability for the materials and construction of the items, which make up the First Responder Kit, and the protection rendered by these items. It is the responsibility of the ordering agency and/or governmental entity to provide any and all training required by any federal, state and local regulation or administrative rules, or recommended by the manufacturer to the respective personnel that will use the equipment.

The user will rely on the warranties of the manufacturers in the event of any failure of the equipment.

FIXED-PRICE WITH ECONOMIC ADJUSTMENT: The contract prices(s) will remain firm for the first twelve (12) months duration of the contract. Thereafter, the Contractor may submit a request to increase their price(s) to be effective thirty (30) calendar days after acceptance by DAS. No price adjustment will be permitted prior to the effective date of the increase received by the Contractor from his suppliers, or on purchase orders that are already being processed, or on purchase orders that have been filled and are awaiting shipment. If the Contractor receives orders requiring quarterly delivery, the increase will apply to all deliveries made after the effective date of the price increase.

The price increase must be supported by a general price increase in the cost of the finished supplies, due to increases in the cost of raw materials, labor, freight, Workers' Compensation and/or Unemployment Insurance, etc. Detailed documentation, to include a comparison list of the contract items and proposed price increases, must be submitted to support the requested increase. Supportive documentation should include, but is not limited to: copies of the old and the current price lists or similar documents which indicate the original base cost of the product to the Contractor and the corresponding increase, and/or copies of correspondence sent by the Contractor's supplier on the supplier's letterhead, which contain the above price information and explains the source of the increase in such areas as raw materials, freight, fuel or labor, etc.

Should there be a decrease in the cost of the finished product due to a general decline in the market or some other factor, the Contractor is responsible to notify DAS immediately. The price decrease adjustment will be incorporated into the contract and will be effective on all purchase orders issued after the effective date of the decrease. If the price decrease is a temporary decrease, such should be noted on the invoice. In the event that the temporary decrease is revoked, the contract pricing will be returned to the pricing in effect prior to the temporary decrease. For quarterly deliveries, any decrease will be applied to deliveries made after the effective date of the decrease. Failure to comply with this provision will be considered as a default and will be subject to the provisions of Article 6, "Contract Terms and Conditions".

COOPERATIVE PURCHASING: In accordance with the Ohio Revised Code Section 125.04, the Director, Department of Administrative Services, may permit a county, township, municipal corporation, regional transit authorities, port authorities, school districts, conservancy districts, township park districts and park districts to participate in contracts into which DAS has entered for the purchase of certain supplies, services, materials and equipment. Contractors may receive purchase orders from these political subdivisions from a contract awarded pursuant to this bid.

Contractors shall deal directly with the ordering political subdivisions. All invoices for such purchases shall be sent directly to the ordering political subdivision's billing address. Invoices sent to the state of Ohio's Office of State Purchasing shall be considered defective invoices and will be returned to the contractor.

When these political subdivisions place an order based upon a contract awarded pursuant to this bid, the political subdivisions should include certain additional information on their purchase order. This information is not limited to the following information.

Political subdivisions should include:

1. Membership/Certificate number. Contractors will require this number prior to entering the purchase order with the manufacturer.
2. Political subdivisions must make sure that they have listed a contact, telephone and fax number should the dealership have any questions about the purchase order.
3. Political subdivisions should make sure that they identify the contract item, description, unit price, any options, options pricing and correct contractor's order number on the purchase order.
4. Contractor may want to develop a check sheet/list to make sure that the political subdivisions have included all necessary and pertinent information on their purchase order.

Even though cooperative purchasing entities are authorized to use this contract, state purchasing does not have the authority to actively intervene when problems arise between the contractor and the procuring co-op. If you have submitted a written purchase order listing everything you need, with prices listed, and you have received an order confirmation indicating the date the contractor received your order and a problem arises, the ordering entity's route of recourse should be as follows:

1. Contact the contractor as soon as you realize there is a problem and DISCUSS with the contractor. Most problems can be solved in this manner.
2. Contact the Department of Administrative Services, Office of Cooperative Purchasing at 614-466-6530 to work towards an amicable resolution.
3. If that doesn't resolve the issue, involve your entity's attorney and let that official body pursue the matter through whatever means necessary to reach a compromise.

TRANSPORTATION CHARGES: Any items(s) ordered from this contract shall be delivered F.O.B. destination to any state agency or any political subdivision located within the state of Ohio.

PURCHASE ORDERS: Purchase Orders for item(s) listed in this contract will be placed directly with the contractor by the ordering agency. All purchases, made by state agencies only, will be placed using the official State of Ohio Purchase Order (ADM-0523). The state will not be obligated to pay for purchases of any supplies or services, made by any other method. No order shall specify delivery to exceed thirty (30) days beyond the expiration, termination, or cancellation date of the contract. A Purchase Order will authorize the contractor to provide the required supplies or services and, upon delivery, acceptance and submission of a proper invoice, will obligate the ordering agency to pay for the supplies or services furnished by the contractor.

When applicable, purchase orders may be placed for delivery to the agency on a quarterly basis. Any orders issued prior to the expiration, termination, or cancellation date of the contract, which require delivery up to ninety (90) days beyond the approved expiration, termination, or cancellation date are to be fulfilled by the contractor.

PURCHASING CARD: The state retains the option to use the state of Ohio Payment Card for the purchase of supplies or services listed in the contract in lieu of issuing a Purchase Order (ADM-0523). No transaction will exceed two thousand five hundred dollars (\$2,500.00) unless the Office of Budget & Management (OBM) has authorized the agency to exceed this dollar limit.

The contractor may receive orders by phone, facsimile or other forms of notification from authorized state employees. The state will not be responsible for orders placed by unauthorized employees. The contractor may process a payment in the credit card network, only upon shipment of supplies or performance of the services ordered by the state agency. For partial shipments or performance, the contractor may process a payment only for the amount shipped or completed and NOT for the entire amount ordered by the state agency. Upon shipment or completion of the remaining order, the contractor may process a payment request in the credit card network for the remainder of the order.

For all transactions, the Contractor must have a valid W-9 form on file with the Office of Budget and Management. In addition, for purchases of "services", the Contractor must also be registered with the Office of Budget & Management as a CORPORATION.

The contractor will receive payment through its merchant bank for credit card processing, within the time frame agreed upon between the contractor and its merchant bank. The contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

PLACEMENT OF ORDERS: Ordering entities are strongly encouraged to place orders as early as possible. Purchase orders for any item(s) listed in a contract, awarded pursuant to this bid, will be placed directly with the contractor(s) by the using agency. No order shall specify delivery to exceed thirty (30) days beyond the expiration and/or cancellation date of the contract.

SUBMISSION OF INVOICES: Refer to the Contract Terms and Conditions, Article K-3, Standard Invoice & Payment. Invoices will not be issued prior to receipt of a purchase order.

USAGE REPORTS: Every three (3) months the Contractor must submit a report (written or on disk) indicating sales generated by this contract. The report shall list usage by customer, by line item, showing the quantities/dollars generated by this contract. The report shall be forwarded to the Office of State Purchasing, 4200 Surface Road, Columbus, OH 43228-1395, Attn: Don McClure.

GENERAL PROVISIONS:

SCOPE

This Invitation to Bid (ITB) is being issued to establish a Term Contract to allow the procurement of Bio-Chemical First Responders Personal Protective Apparel by the Ohio Department of Public Safety (ODPS) and other Ohio governmental jurisdictions (i.e. state agencies, county, city, township, etc.). This procurement is an important aspect of the state of Ohio's Homeland Security effort.

A committee consisting of members of the Ohio State Highway Patrol, Buckeye State Sheriff's Association, Ohio Association of Chiefs of Police, and the Ohio Fire Academy performed in-depth research on the various types of Bio-Chemical Personal Protective Apparel available on the market. One of the goals of this contract is to establish a safety standard throughout Ohio for police, EMS, fire and security force first responders.

The Bio-Chemical Personal Protective Apparel will be predominately procured in kits, however, on some occasions the purchase will be individual components. The Bio-Chemical First Responder Kits, hereafter called the First Responder Kit, will consist of: a mask with canister filter and tinted lens outsert; one (1) additional canister filter, two (2) bio-chemical protective coveralls; two (2) pairs of gloves; two (2) pairs of boot covers; carrying bag; mask carrier; two (2) rolls of duct tape; and two (2) plastic bags. Different size combinations of masks, coveralls, gloves, and boot covers will be ordered for the First Responder Kits.

Although the state makes no guarantee of orders to be placed, the state of Ohio expects this contract to generate orders for 27,000 complete First Responder Kits. The individual items, which make up a First Responder Kit, may generate additional purchases of 1,000 more of each item. The successful bidder will receive orders from government jurisdictions in Ohio, obtain the required items as specified in the contract, package and ship those items f.o.b. destination. It is anticipated that orders up to 90% of the contract quantity will be placed in the first contract year with dramatically lower quantities being ordered during the succeeding renewal periods.

Definitions:

To ensure potential bidders have a good understanding of the requirements and specifications of this Invitation to Bid (ITB), the following definitions are provided:

DAS - Department of Administrative Services

Days – If not specified, is defined as a calendar day

First Responder – Personnel from police, EMS, fire and security forces that are the first to arrive at the scene of an incident.

Government Jurisdictions – Any government agency, i.e. state, county, city, township, etc., that has a role in Ohio's Homeland Security effort

Level B Protection – Level B protection refers to EPA guidelines for levels of protection. The state of Ohio desires coveralls that provide liquid splash protection, but are not sealed against vapors.

ODPS – Ohio Department of Public Safety

Shelf Life – The length of time a properly packaged item remains fully functional after manufacture.

Equivalent or better - Where a brand name, followed by this verbiage, appears in the specification, the brand name is for the purpose of describing the base standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

NIOSH - National Institute of Occupational Safety and Health

General Requirements:

The successful bidder may receive orders to produce and deliver up to 27,000 First Responder Kits the first contract year. The first 1,600 kits will be ordered by the Ohio State Highway Patrol and are to be delivered not later than (NLT) 90 days after receipt of the order (ARO). There is a potential of 20,000 kits, including the 1,600 shown previously, that may be ordered for delivery NLT 26 weeks ARO.

Bidder Requirements:

The contractor will deliver the specified individually ordered items, separate from First Responder Kits, within 60 days ARO.

All First Responder Kits and individual item orders are to be packaged as identified by the State.

Each First Responder Kit is to be individually packaged and is to include the mask with tinted polycarbonate lens, coverall, glove, and boot cover in the sizes stated by ordering government jurisdictions. The package (kit) is to show the sizes of the items clearly labeled on the outside of the package. The package will also include the carrying bag, canister filter, mask carrier, duct tape and disposable plastic bags. All items, except the carrying bag, duct tape and disposable plastic bags, will be individually packaged in sealed clear plastic bags, which are easily opened without the use of scissors or knife, and marked with the size of the item, if applicable.

The contractor is to inform the State of any special requirements and ordering instructions they may have.

The State will instruct government jurisdictions in Ohio how to order First Responder Kits and individual items from the contractor. The State will also advise the government jurisdictions any special requirements the contractor may have.

The contractor is to include any instructions with the First Responder Kits that the State may provide. For example, the State may develop, reproduce, and provide, to the contractor, instructions that the contractor is to include with the First Responder Kits.

The State may require the apparent low bidder to provide a sample First Responder Kit, including contents and labeling, for State approval prior to an award being made. See Page 12, Product Sample paragraph.

State Requirements:

The State agrees to modify delivery expectations based on verified availability of specified items.

Provide supplemental material for the contractor to include with First Responder Kits.

Specifications:

Each First Responder Kit will consist of the following:

- 1 each Carrying Bag
- 1 each Gas Mask with approved filter and tinted polycarbonate lens outsert
- 1 each Filter Canister
- 1 each Mask carrier
- 2 each Tyvek "F" Coveralls
- 2 each Pairs of disposable butyl rubber gloves
- 2 each Pairs of disposable rubber boot covers
- 2 each Rolls of duct tape
- 2 each Large disposable plastic bags

All products offered for this bid will be inspected and evaluated by representatives from the Office of State Purchasing, Highway Safety and the Ohio Homeland Security Committee.

The following are detailed specifications for each component of the kit:

CARRYING BAG:

This bag will hold all items of the First Responder Kit including the mask and mask carrier.

Size – Must comfortably contain all equipment. Approximate minimum is 2,000 cubic inches with a maximum of 2,400 cubic inches. For example: 20" L x 11" W x 9.5" H ± 2" on all dimensions.

Material - Cordura Nylon or material of equivalent strength

Color – Black

Zippered closure

Adjustable Strap

Bag is to be marked as follows: **FIRST RESPONDER KIT** in white Arial font 3/4" tall letters. No other printing of any type will be allowed.

A tag will be affixed to the bag, which will contain the following information: Sizes of the gas mask, coveralls, gloves, and boot covers; and expiration dates of the filter, coveralls, and gloves.

GAS MASK:

Gas mask with approved filter (i.e. GME/P100) and tinted polycarbonate lens outsert, MSA Millennium mask, Part Numbers 10007423 (Small); 10007422 (Medium); 10007424 (Large), or equivalent.

Packaged in an easy opening sealed container with mask size labeled on the container.

NOTE: Mask and filter combination are to be newest models and NIOSH approved in combination.

NOTE: Any filter canisters not NIOSH approved, in combination with the mask bid, are not acceptable. Also, any clear polycarbonate lens outsert is to be deleted from the mask package.

NOTE: If a Voice Amplifier is available for the mask offered (i.e. MSA Voice Amplifier, Part Number 10026265), provide pricing in the space provided on page 20. This item will not be included in the kit as a standard item, but some agencies or government jurisdictions may order them for their personnel.

FILTER CANISTER:

Filter Canister, MSA GME/P-100 filter Canister, Part Number 10024850, or equivalent.

Filter Canister must meet the NIOSH test criteria on page 19 for protection of gases and particulates listed

Filter to have standard 40 mm NATO thread

Packaged in a sealed container

Dated with the manufacture and expiration dates.

Shelf life of four (4) years, minimum, from manufacturing date with a minimum of three (3) years remaining before shelf life expiration

NOTE: The Gas Mask and Filter Canister must be NIOSH approved as a complete package. Include documentation with the bid submission listing chemical agents for which NIOSH has approved the combination mask and filter. If the mask and filter have not been approved in combination by NIOSH, your bid will be deemed not-responsive.

In addition to the NIOSH approved gases and particulates, listed on page 19, the mask/filter combination shall also be effective against the following chemical warfare (CW) agents: GA, GB (Sarin), GD, VX, Mustard and Lewisite determined by using the test protocol recommended by the Chemical Agent Safety and Health Policy Action Committee (CASHPAC). The mask/filter combination should also be effective against OC (oleoresin capsicum) Riot Control Agent and HCN (hydrogen cyanide).

MASK CARRIER:

Gas Mask Pouch, with belt holder and shoulder and leg straps, which will fit the Gas Mask with the Filter Canister installed and allow the flap cover to be securely fastened. Color will be black. BlackHawk Industries Omega Gas Mask Pouch, Part Number 56GM00BK, or equivalent.

LEVEL B SUIT: Brand Specific - no other materials are acceptable.

DuPont Tyvek F Coveralls; Super Nova USA, Inc., Part Numbers SL172-TF and SL172-OL-TF

Taped seams, respirator fit hood, elastic wrist and ankles, storm flap over zipper.

Packaged in an easy opening vacuum-sealed container with coverall sizes labeled on the container.

Coveralls for law enforcement personnel will be olive drab green (SL172-OL-TF).

Coveralls for other personnel will be gray (SL172-TF).

Dated with manufacture and expiration dates.

Shelf life of ten (10) years, minimum, from manufacturing date with a minimum of nine (9) years remaining before shelf life expiration

Sizes – S, M, L, XL, XXL, additional sizes if available

DISPOSABLE BUTYL GLOVES:

Guardian Manufacturing Style CP-7, or equivalent.

Texture - Rough or smooth with textured finger tips and palms

Sizes – S, M, L, XL

Thickness – 7 mil, minimum, 14 mil maximum

Length – 14 inches

Packaged in an easy opening clear plastic sealed container, and labeled to show the glove size enclosed.

Dated with manufacture and expiration dates.

Shelf life of five (5) years, minimum, from manufacturing date with a minimum of four (4) years remaining before shelf life expiration

DISPOSABLE RUBBER BOOT COVER:

Bata/On-Guard 12" Latex "HazMat" Boot Covers, Type 97591, or equivalent.
Sole is to be ribbed to prevent slipping
Sizes - L, XL, 2X
Thickness - .70 mil
Length - 12 inches
Packaged in an easy opening .clear plastic sealed container, and labeled to show the cover size enclosed

DUCT TAPE:

Intertape Cloth, Intertape Model Number AC363L-84358, or equivalent.
Color - Dull Black, not gloss finish
Quantity - Two (2) rolls
Width - 3 inches
Length - 10 yards, minimum, 60 yards, maximum

DISPOSABLE PLASTIC BAG:

To be used for decontamination disposal.
Material - Linear low density Polyethylene
Gauge - 1.65 mil ± 0.20 mil
Capacity - 60 gallon with maximum load rating of 120 lb.
Dimensions - Approximately 36" x 60" ± 1"
Star seal bottom with no side seams, cordless, twist tie closure
Color - clear with HAZMAT printed in red 3" minimum lettering 2 sides, font "Arial" bold

Packaging:

Each First Responder Kit, consisting of all items identified above as being part of the kit and left in their sealed plastic bags marked with size where applicable, will be pre-packaged in a sealed corrugated carton to protect the kit during shipment and storage. The carton shall be labeled, in large print on each side and top of the carton with "**FIRST RESPONDER KIT**". The carton shall also be labeled with the sizes of the mask, coveralls, gloves, and boot covers. The expiration dates of the filter, coveralls, and gloves will be shown on the label also.

Orders for individual items will be pre-packaged and shipped as requested by the ordering government jurisdiction.

Delivery:

All items will be shipped by the contractor to arrive as specified in the bidder requirements not later than 60 days ARO.

For large orders shipped freight, the corrugated cartons must be placed on 40 x 48 inch four way wooden pallets and shrink-wrapped.

NOTE: Indicate in the space provided the number of cartons which will be considered a pallet quantity: _____

ITEMS TO BE INCLUDED WITH THE BID SUBMISSION

1. Certificate for Domestic and Ohio Preference, Page 2
2. Authorized Dealer Letter
3. Workers' Compensation Certificate
4. Insurance Coverage (Insurance Acord)
5. Descriptive Literature for items bid
6. Manufacturer's Warranties
7. NIOSH Certification of Mask and Filter combination

	Test Concentration (mg/m ³)	Flow Rate (LPM)	Relative Humidity (%)	Service Time (min)	NIOSH Approval ?
DMMP	1000	64	25	>60	N
Cyanogen Chloride (CK)	4000	64	80	>4	N
Hydrogen Cyanide (AC)	550	64	50	>140	N
Phosgene (CG)	20000	64	50	>10	N
Chloropicrin (PS)	5000	64	80	>30	N
Sarin (GB)	1000	64	25	>70	N
Chlorobenzylidene (CN)	101	64	50	>480	Y
		64	25	>480	
		64	85	>480	
Chlorobenzylidene-malononitrile (CS)	23.1	64	50	>480	Y
		64	25	>480	
		64	85	>480	
Chlorine (Cl ₂)	1450	64	50	>90	Y
		32	25	>90	
		32	85	>90	
Sulfur Dioxide (SO ₂)	1310	64	50	>60	Y
		32	25	>60	
		32	85	>60	
Hydrogen Chloride (HCl)	746	64	50	>50	Y
		32	25	>50	
		32	85	>50	
Carbon Tetrachloride (CCl ₄)	6290	64	50	>50	Y
		32	25	>50	
		32	85	>50	
Ammonia (NH ₃)	697	64	50	>25	Y
		32	25	>50	
		32	85	>50	
Formaldehyde (CH ₂ O)	123	64	50	>75	Y
		64	25	>75	
		64	85	>75	
Hydrogen Fluoride (HF)	57.3	64	50	>60	Y
		64	25	>60	
		64	85	>60	
Hydrogen Sulfide (H ₂ S)	1394	64	50	>50	Y
		32	25	>50	
		32	85	>50	
Methylamine (CH ₃ NH ₂)	1270	64	50	>25	Y
		32	25	>50	
		32	85	>50	
Phosphine (PH ₃)	2086	64	50	<5	N
		32	25	>30	
		32	85	>30	
Chlorine Dioxide (ClO ₂)	1380	64	50	>50	Y
		64	25	>50	
		64	85	>50	
Particulates (P100)	200 mg total loading with 0.3m MMAD DOP Particles				Y

PRICING SCHEDULE

NIGP Code Numbers	Item	Part Number	Price/Item
345-32-70-200-7	First Responder Kits	1699	\$280.06
345-32-70-202-3	Carrying Bag	1655	\$15.95
345-32-70-204-9 345-32-70-203-1 345-32-70-205-6	MSA Gas Mask with tinted polycarbonate lens	Small 1650 Medium 1651 Large 1652	\$154.50 \$154.50 \$154.50
345-32-70-206-4	Filter Canister	1688	\$20.10
345-32-70-208-0	Mask Carrier	1653	\$26.25
345-32-70-210-6	Coveralls, OD Green (law enforcement)	SL172-OL-TF 1640 GR	\$22.50
345-32-70-212-2	Coveralls, Gray (other than law enforcement.)	SL172-TF 1640 GY	\$22.50
345-32-70-214-8	Rubber Gloves	1635	\$8.45
345-32-70-216-3	Boot Covers	1624	\$2.09
345-32-70-218-9	Duct Tape	1657	\$1.19
345-32-70-220-5	Plastic Bags	1654	\$0.31

345-32-70-230-4

Price of optional Voice Amplifier

\$177.99

Manufacturer and Part Number:

MSA Part Number 1656

CONTRACTOR'S INDEX

CONTRACTOR AND TERMS

*83-0311630
Defense Technology Corporation of America
13386 International Parkway
Jacksonville, FL 32218

CONTRACTOR'S CONTACT: Jason Brown

CONTRACTOR'S IT/MIS CONTACT: David Lyle

BID CONTRACT NO.: OT905603 (09/23/02)

DELIVERY: 1,600 Kits 90 Days A.R.O.
Additional kits and parts 26 Weeks A.R.O.

TERMS: Net 30 Days

Toll Free: (800) 773-8294
Telephone: (904) 485-1804
FAX: (904) 741-4792

E-mail: jbrown@armorholdings.com

*NOTICE TO CONTRACTOR'S: ALL INVOICES TO THE STATE OF OHIO MUST SHOW THE CONTRACTOR'S TIN. THIS CONTRACT SHOWS YOUR NUMBER AS PART OF THE ADDRESS AND IS ALSO YOUR CURRENT CONTRACTOR NUMBER.

*NOTICE TO INSTITUTIONS: Your purchase orders against this contract MUST include the contractor number as shown above.