

Florida State University COMPETITIVE SOLICITATION Acknowledgement Form		SUBMIT OFFER TO: PURCHASING DEPARTMENT FLORIDA STATE UNIVERSITY 282 CHAMPIONS WAY, BLDG. UCA1400 TALLAHASSEE, FL 32306 Phone:(850) 644-6850 – Fax (850) 644-8921 www.purchasing.fsu.edu	
Page 1 of	Pages	OFFERS WILL BE OPENED	CS NO:
		and may not be withdrawn within	days after such date and time.
UNIVERSITY MAILING DATE:		TITLE:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER OR S.S. NUMBER			
VENDOR NAME		REASON FOR NO OFFER	
VENDOR MAILING ADDRESS			
CITY - STATE - ZIP CODE		POSTING OF PROPOSAL TABULATIONS	
AREA CODE	TELEPHONE NO.	Proposal tabulations with intended award(s) will be posted for review by interested parties at Purchasing Services and our solicitation web page and will remain posted for a period of 72 hours. Failure to file a protest within the time prescribed in Florida Board of Governors Regulation 18.002 and FSU Regulation FSU 2.015, or Failure to post the bond or other security as required in Florida Board of Governors Regulation 18.003, shall constitute a waiver of proceedings under that regulation.	
	TOLL FREE NO.		
	FAX NO.		
Email Address.			

Government Classifications

Check all applicable

- | | |
|--|---|
| <input type="checkbox"/> African American | <input type="checkbox"/> American Women |
| <input type="checkbox"/> Asian-Hawaiian | <input type="checkbox"/> Government Agency |
| <input type="checkbox"/> Hispanic | <input type="checkbox"/> MBE Federal |
| <input type="checkbox"/> Native American | <input type="checkbox"/> Non-Minority |
| <input type="checkbox"/> Non-Profit Organization | <input type="checkbox"/> Pride |
| <input type="checkbox"/> Small Business Federal | <input type="checkbox"/> Small Business State |

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this offer and certify that I am authorized to sign this offer for the vendor and that the vendor is in compliance with all requirements of the Invitation To Negotiate, including but not limited to, certification requirements. In submitting an offer to an agency for the State of Florida, the vendor offers and agrees that if the offer is accepted, the vendor will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the state of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the vendor

AUTHORIZED SIGNATURE (MANUAL)

AUTHORIZED SIGNATURE (TYPED), TITLE



**FLORIDA STATE UNIVERSITY (FSU)
INVITATION TO NEGOTIATE (ITN)
CAMPUS WIDE DINING SERVICES CONSULTANT
ITN 5722-A**

**FLORIDA STATE UNIVERSITY
INVITATION TO NEGOTIATE CAMPUS WIDE DINING SERVICES CONSULTANT
ITN 5722-A**

I. Introduction 3

II. Goals and Objectives 5

III. Submitted Responses 5

IV. ITN Tabbed Response Section 6

V. Important Note Regarding Initial Written Response 8

VI. Evaluation Process 8

VII. Evaluation Criteria 9

VIII. Authority to Negotiate 10

IX. Calendar of Events 11

X. Exhibits A, B, and C 12

XI. Definitions and Special Terms and Condition's 17

I. Introduction

ITN Purpose:

The Florida State University (FSU) Office of Business Services (OBS) has operational responsibility for all aspects of food services on the FSU campus. As such, OBS is constantly looking to improve, shape and re-create the campus dining experience. With the opportunity to rebid the current food services contract coming up in 2018, OBS is beginning the planning process. We desire to consider new approaches to food service operations and to understand how those services could be provided and the environments in which that would take place. How can we more effectively address our campus communities' needs for food services, deliver value, quality, better nutrition, provide a sense of community and "energize" our venues while maintaining a financially healthy operation.

OBS is keenly aware that dining and the environments in which food is provided play an important role in student enrollment and retention. Therefore, thoughtful evaluation of our current operations and future direction is needed. The Office of Business Services is looking for the services of a qualified and capable dining services consulting firm to document, benchmark, evaluate, recommend immediate improvements, provide financial advice, meal plan designs, hours of operation and new strategic directions for food services on the FSU campus.

Select Information About FSU:

One of the nation's elite research universities, FSU — with the Carnegie Foundation's highest designation, Doctoral/Research University-Extensive — offers a distinctive academic environment built on its cherished values and unique heritage, welcoming campus on the oldest continuous site of higher education in Florida, championship athletics, and prime location in the heart of the state capital.

Combining traditional strength in the arts and humanities with recognized leadership in the sciences, FSU provides unmatched opportunities for students and faculty through challenging academics, cultural discovery and community interaction.

Underlying and supporting the educational experience at FSU is the development of new generations of citizen leaders, based on the concepts inscribed in our seal: Vires, Artes, Mores — Strength, Skill and Character.

Epitomized by recently named Rhodes Scholars Garrett Johnson and Myron Rolle — elite athletes and scholars committed to public service — and Joseph O'Shea — a campus and community leader as well as a top scholar — Florida State's 41,000 students are dedicated to academic excellence and providing leadership in our complex world.

FSU's 16 colleges offer more than 275 undergraduate, graduate, doctoral, professional and specialist degree programs, including medicine and law, covering a broad array of disciplines critical to society today. Each year the University awards over 2,000 graduate and professional degrees.

With its impressive breadth of leading graduate, professional and undergraduate programs, FSU is a demanding, intellectually stimulating, yet warm and caring environment for students and faculty. Recognized nationally for its commitment to diversity, FSU is a national leader in the number of doctorates awarded to African-American students and in the graduation rate of African-American undergraduates. Its College of Medicine and College of Law are ranked in the nation's Top 10 for Hispanic students.

FSU's arts programs — dance, film, music and theatre — rank among the finest in the world, offering an arts education comparable to leading conservatories. Its creative writing program is ranked among the nation's best and is home to the most consistently honored and published student body in the United States. FSU is responsible for governance of the John and Mable

Ringling Museum of Art and associated arts programs, one of the largest museum/university complexes in the nation.

Other programs consistently included in the top public university list include physics, chemistry, political science, psychology, criminology, public administration, library science, information, human sciences, business and law.

At the Ph.D. level, interdisciplinary programs draw on notable research faculty strengths that transcend the traditional disciplines, including neuroscience, molecular biophysics, computational science, materials science and research at the National High Magnetic Field Laboratory—home to the world's most powerful magnets.

Select Information about Current Food Services:

In 2003 Florida State University conducted a competitive Invitation to Negotiate (ITN) process to select a new campus food services provider. Aramark was awarded the contract and became the exclusive dining provider (with the exception of catering) of all prepared meals for the FSU campus in Tallahassee. The initial contract length was for 10 years. Subsequent to that Aramark had also signed a five year extension that will expire July 2018.

The year of 2003 found the FSU campus with limited food services options which included only three (3) eateries with 350 total seats. In addition, meal plan sales were anemic, with only 865 sold. To address these issues, FSU asked Aramark to begin an aggressive growth plan to provide more venues, increased seating capacity and sell more meal plans. As of September 2014 the FSU campus now has over 24 eateries with a combined seating capacity of over 1,850. Meal plan counts now exceed 4,400. This increase in food service facilities and new bundled meal plans have driven sales from \$7.9M in 2003 to over \$29.4M in 2013.

A description of dining locations can be found in Exhibit A. Sales by location can be found in Exhibit B. Select square footages and seating by locations can be found in Exhibit C.

Additional Information: FSU highly recommends any firm interested in responding to this ITN to take a significant amount of time to review and understand FSU and the current food service options via the following links: www.fsu.edu , www.obs.fsu.edu and <http://www.seminoledining.com>

Sole Point of Contact

The Proposers SOLE point of contact for all matters relating to this ITN will be:

James Johnson, Procurement Specialist
Florida State University
Procurement Services
University Center 1400A
Tallahassee, Florida 32306-2370
Phone: (850) 645-2304
Fax: (850) 644-8921
E-mail: jjohnson@fsu.edu

Questions related to this ITN must be submitted in writing to Mr. James Johnson or his designee no later than the date/time indicated in the Calendar of Events. All oral communications will be considered unofficial and non-binding on FSU. Proposers must rely only on written statements issued by the ITN Sole Point of Contact or designee.

II. ITN Goals and Objectives

FSU has the following goals and objectives for the ITN:

1. Identify a firm with the experience and knowledge that can provide a comprehensive review and provide strategic planning for FSU food services;
2. Contract with a qualified firm for a limited period of time to complete the review. The exact timeframe will be negotiated.
3. Work closely with the FSU community stake holders to assure all view points and inputs are considered;
4. Have a comprehensive review and evaluation of all aspects of food service on the FSU campus performed;
5. Receive recommendation as to how to better deliver food services to the broadest segment of the FSU community;
6. Receive recommendations on current and future food service venues and locations on the FSU main campus;
7. Receive a comprehensive strategic plan to guide FSU's food services to a "Top 25 Ranking";
8. Better understand the dollar value of FSU's foodservice program to potential vendors;
9. Have FSU's current food services operations benchmarked against the nation's most progressive and outstanding peers;
10. Provide recommendations for a successful on-going food services marketing program;
11. Receive recommendations to maximize revenue opportunities while efficiently managing costs to ensure greatest possible financial return to FSU while at the same time supporting and enhancing the operation and development of food services;
12. Receive recommendations as to how to protect the University's investment in our current and any future food service facilities.
13. Depending upon the outcome of the study, as a Phase II to this process, Florida State University may also engage the services of the awarded proposal/firm to develop a solicitation for food services, evaluate any proposals received and participate in negotiations and contract development.

III. Submittal Responses

Firms must respond in the following format. For ease of review and comparison with other respondents proposals should be returned in a tabbed three ring binder in the following format as outlined in Section IV:

- Tab 1: Executive Overview of Proposal
- Tab 2: Contact Names
- Tab 3: Financial Information
- Tab 4: References
- Tab 5: Vision and Detailed Proposal
- Tab 6: Consulting Team Resumes

Tab 7: Additional Information

Tab 8: Fees

The original proposal and all copies should be on 8 ½ x 11 text weight paper, using binding and tabs that will facilitate the distribution and evaluation of the proposals.

- Submit one (1) original and six (6) copies of the proposer's proposal in hard copy form. The original response shall contain the original manual signature of the authorized person signing the proposal, and the electronic copy of the proposal (in Microsoft Word or Adobe pdf format either on a CD, or a flash drive).
- **Failure to include the original proposal response and all signed copies may be grounds for rejection of your proposal without further evaluation.**
- The clearly marked original signed response and copies shall be in a standard size three (3) ring binder(s), tabbed and numbered as described below. **Original must be submitted in a separate envelope.**
- The response binders shall be provided in a carton or cardboard box. The outer carton of the response shall include the ITN number, name and due date.
- Each proposer's response shall include the information and required submittals described, **tabbed and numbered as shown below**, with all information appearing in the Tab in which it was requested. Failure to submit any part of the documentation listed shall be grounds for disqualification of a response.

IV. ITN Tabbed Sections

Responses shall be tabbed and headed exactly as outlined in each section, and the required information shall be provided in the section under which it was requested by FSU. Responding companies may not combine or reorganize the headings and/or requests for information, or indicate that the information will be included in another section.

When submitting your response for each Tab, please repeat FSU's question or information request as shown in this document or addendum and then supply your response.

- Questions and requests for information may not be rearranged, regrouped, or divided in any way.
- All information and required submittals requested SHALL BE in hardcopy and included in your written response.

Responses shall not refer the University to electronic media such as websites, cd's disks, or tapes in order to obtain the required information or submittals.

Failure to adhere to this condition may cause your response to be rejected without further evaluation.

- Information submitted that is not requested by the University may be considered to be supplemental, not subject to evaluation by the committee members.
- If there is any information or required submittals which due to size or binding cannot be incorporated following the proper tab, the proposer must provide information following the numbered tab, telling the evaluator where the information can be found in the response.

Tab 1: Completed and signed ITN Competitive Solicitation Acknowledgement Form, and signed and completed addenda forms that may be issued.

In addition, a one (1) or two (2) page executive summary of your proposal, including brief descriptions of your company's expertise and experience dealing with engagements the size and scope of the FSU operation along with how you plan to address the University's priorities and vision as outlined in the ITN.

Tab 2: Contact name(s) and titles of the individual(s) responsible for the company's proposal and negotiation during this ITN process, including addresses, phone, fax and email.

Tab 3: The financial statements of the company for the past three (3) years. If the company is a division of a larger corporation, the statements should be submitted for the corporation as a whole AND for that division of the corporation.

Tab 4: Provide at least three (3) verifiable references including Company/Institution name, address, contact, phone number, and email. References should be for similar scope of work as specified in this ITN

Tab 5: Based upon the goals and objectives outlined in Section II of the ITN, submit a detailed explanation of the company's "vision" for FSU food services and how your company would plan on approaching the task. This "vision" should be comprehensive enough for FSU to understand your approach and methodologies. Specifically address the following items in your vision and work statement:

1. How would you evaluate the current state of food services on campus and benchmark current operations against other best in class University across the nation?
2. FSU is focused on becoming a US News and World Report Top 25 National University. How would you propose to make FSU a "Top 25" university food services operation?
3. How would your company propose to impact and integrate the food service message to better represent FSU and better serve the community?
4. How will you approach determine the value of FSU's food service program?
5. How would you benchmark current meal plans and/or price points? How would you address improvements?
6. FSU wants to "energize" and urbanize its food services environment thus making them destinations. How would you approach this?
7. After evaluating FSU's current sustainability efforts in food services, how would your company propose that we enhance our sustainability initiatives and take advantage of potential positive community public relations by adopting such an initiative
8. How would your company assure that the interests of various key FSU stakeholders are fairly represented in this consulting engagement?
9. What best practices or methodologies would your company refer to or depend upon when recommending improvements to FSU's food services operations?

10. Can your company provide additional services such as: Request for Proposal (RFP) or Invitation to Negotiation (ITN) development, proposal review and contract development? Please explain.

Tab 6: Submit the resumes of the consulting team the company is proposing for the FSU engagement.

Tab 7: This section can include any additional information that you feel FSU would be interested in. This section could include “out of the box” ideas or concepts from previous engagements or anything that would help differentiate you from other companies.

Tab 8: Provide a comprehensive break down of cost, project outline and a timeline to complete your proposed engagement. Include hourly rates and specific services FSU could use on an a la carte basis. Please be as detailed and specific as possible, including all costs associated with your services. Provide a sample invoice along with a detailed rate schedule for all services listed for in this ITN.

V. Important Note Regarding Initial Written Response

The determination of the companies selected for the short list with which negotiations will continue will be based on evaluation of the written response submitted. There will be no opportunity for presentations at this stage. Any response that does not provide complete, accurate, and detailed answers to each question, or which indicates the company prefers to defer providing complete details until a later stage in the process, may be declared non-responsive, and rejected without further evaluation.

VI. Evaluation Process

FSU will establish an Evaluation Committee comprised of representatives knowledgeable about the services and intent of the ITN to evaluate all proposals. The purpose of the Committee and evaluation process is to objectively review, discuss, and analyze submitted proposals and to narrow the list of Proposers to those firms which present the best proposal and are best qualified to provide any and all of the services outlined in the ITN.

The Evaluation Committee will evaluate and provide a consensus opinion of all initial responses. The responses most closely aligned with the preferred requirements or offering a solution that is determined to be desirable and in the best interest of the University by the Evaluation Committee will be invited into the negotiation process.

After initial written responses have been evaluated, the following negotiation process will be utilized:

The Evaluation Committee may determine a short list of two or more companies with whom to enter negotiations. A failure of the proposer(s) to provide a solution based on the overall preferences may be grounds for exclusion from the short list. The Evaluation Committee reserves the option to begin negotiations either concurrently with the proposer(s), or sequentially, whichever is in the best interest of the University. The negotiation process will work toward finalization of a contract that satisfactorily addresses the needs and requirements of the University as set forth in this ITN document. In the event that negotiation with all short list proposer(s) is unsuccessful, the Evaluation Committee reserves the option of reviewing all submissions, and to enter negotiations with non-short list proposer(s).

At the conclusion of this negotiation process, selected firms will be asked to submit a written best and final offer, to memorialize all agreements reached during negotiations and to extend additional benefits to the University if desired. An invitation to submit a best and final offer is not automatic. The negotiation process will end upon submission of the "best and final" offer and proposer(s) will not be allowed to make further adjustments to their offer or communicate further with the Evaluation Committee, except to respond to requests for clarification from the Committee using the sole point of contact from the FSU Procurement Services Department.

After all negotiations are complete, the Evaluation Committee will make a recommendation to the Vice President for Finance and Administration for action.

The recommendation of the Evaluation Committee will be based upon the initial written response, negotiation sessions, and best and final offers. The Award(s) shall be made to the responsive and responsible firm whose proposal is determined to be the most advantageous to or in the overall best interest of FSU, taking into account the evaluation criteria.

FSU reserves the right to reject any and all proposals or any part thereof, to waive informalities, to accept and further negotiate the proposal(s) deemed most favorable and beneficial to FSU, and to make single or multiple awards. Incomplete proposals may not be considered in the evaluation.

FSU reserves the right to, but is not obligated to, request and require that each Proposer provide an in-person formal presentation of its proposal at a date and time to be mutually determined.

FSU reserves the right to inspect and investigate thoroughly the establishment, facilities, equipment, business reputation and other qualifications of the Proposer and any proposed subcontractors and to reject any proposal irrespective of pricing and financial terms if it is determined that the Proposer is deficient in any of the essentials necessary to assure acceptable standards of performance in the services of this ITN.

FSU reserves the right to refrain from notifying the unsuccessful Proposers that their proposals have not been awarded by FSU until after FSU has entered into a binding agreement with the successful Proposer.

After an award is made, the entire agreement between FSU and the successful Proposer, if any, shall consist of the agreement document which shall be substantially the same as 1) the terms, conditions, and specifications of the ITN 2) the documents issued by FSU and collectively constituting the ITN and 3) the proposal document submitted by the successful Proposer including the Best and Final Offer.

VII. Evaluation Criteria

Because this is an Invitation to Negotiate, no specific point values will be assigned to responses, however the university's determination of the short list of proposers with whom negotiations may continue will be determined from the following evaluation factors and criteria that will be considered during the evaluation process in no particular order or weighting:

1. Proposer's ability to articulate, address, and outline its plan to meet and accomplish the ITN Goals & Objectives of FSU for the services;
2. Proposer's ability to incorporate and describe responses to the ITN Tabbed Section;
3. Proposer's relevant experience, qualifications, and previous success in providing similar services as identified in the ITN;

4. Proposer's references from current or former clients;
5. Proposer's fees and cost to perform the services for the project.

VIII. Authority to Negotiate:

A. Only representatives of the selected companies, who are authorized to negotiate terms and conditions with FSU, stand behind those decisions and initiate contracts shall be allowed to be involved in negotiations.

B. Representatives of the proposer(s) selected to participate in oral negotiation(s) shall be first required to submit written authorization from the company CEO or CFO attesting to the fact that the company's lead negotiator is authorized to bind the company to the terms and conditions agreed to during negotiations and as contained in the proposers best and final offer. **Please see Attachment A.** Such authorization will be included in proposal response and the provision of such authorization will be a prerequisite to continuation in the ITN process. The University will not enter into extensive contract negotiations with the selected proposer(s) after the negotiation process has been completed. Company negotiators shall enter the negotiations prepared to speak on behalf of the proposer's Sr. management, marketing, finance and operational areas. If the University determines that a company that is awarded a contract based on this ITN does not honor all agreements reached during the negotiations, and as contained in the best and final offer, the University reserves the right to immediately cancel the award, and to place the company on the University's suspended firm list.

C. The University reserves the right to immediately terminate negotiations with any company whose representatives are not empowered to, or who will not, make decisions during the negotiation session. Companies are reminded that the University may elect not to solicit a best and final offer from any company whose representative(s) have been unable or unwilling to commit to decisions reached during the verbal negotiation process.

IX. Calendar of Events

Unless otherwise revised by a subsequent addendum to this competitive solicitation, the dates and times by which stated actions should be taken or completed are listed below. If FSU determines, in its sole discretion, that it is necessary to change any of these dates and times, it will issue an Addendum to the competitive solicitation and issue a Notice of Addendum on the FSU Procurement Services Website. All times listed are Eastern Standard Time (EST). It is the proposer's responsibility to check the FSU Procurement Services website for any updates or addendums to this ITN.

A. Non-Mandatory Pre-Proposal Meeting

A non-mandatory pre-proposal meeting will be held at the FSU Campus on Wednesday, October 30th beginning at 10:00 a.m. eastern standard time. The meeting will be located at University Center C, (location will be posted via addendum). FSU representatives will be available to provide any information concerning FSU, the ITN and/or current food services, as well as, provide additional materials and be made available to answer questions from attendees. To ensure appropriate space and available materials, prospective Proposers interested in attending the meeting are requested to provide the firm name and number, names, titles of anticipated attendees to James Johnson by email at jjohnson@fsu.edu on or before the close of business, October 29, 2014. Upon request, parking passes will be available for attendees. If special accommodations are required for an attendee, contact James Johnson at the email above and indicate the nature and need for such accommodations. Under no circumstances will any verbal statements or offers made by an attendee or FSU representative be considered binding.

B. ITN Timeline

The following chart outlines the anticipated timeline and key milestone dates of the ITN process. The ITN timeframe may be adjusted by the Evaluation Committee as necessary. Failure to meet any of the deadlines or attend any of the events identified below as "Mandatory" will result in disqualification from participation in the procurement. All times are the local time in Tallahassee, FL. FSU reserves the right to revise the key events and dates by written notice to the proposers.

<u>Task</u>	<u>Date</u>
FSU Releases ITN	10/17/14
<u>Non-Mandatory</u> Pre-Proposal Conference On-Site 10 AM (EST) Office of Business Services UCC, Suite – Location will be posted via addendum Tallahassee, FL 32306 FSU Go-To Meeting number: 850.644.2255	10/30/14
Last Day for Vendor Questions	11/07/14 5 pm (EST)
Addenda Released (if necessary) w/ Answers to Questions	11/14/14 5 pm (EST)
ITN Proposal due Date	11/24/14, 1 pm (EST)
FSU and Committee Review Proposals	Week of 12/1/14
Negotiation Meetings Start	TBD
Best and Final Offers	TBD
Post Intent to Award	TBD

X. Exhibts A, B, and C

Exhibit A

Summary of Current Eateries on the FSU campus:

- **All-You-Care-To-Eat Restaurants**
 - The Suwannee Room is located in the back of the William Johnston Building, providing the ultimate convenience for our east campus neighborhood. This all-you-care-to-eat dining hall has eight different serving stations with a variety of food. The Suwannee Room has a rich history and was originally used to serve the Florida State College of Women. Seminole Dining renovated this one-of-a-kind historical site in 2006 to once again serve the students, faculty and staff and brings quality food and convenience to the east side of campus.
 - The Fresh Food Company -is located on the west side of campus - next to Salley, Smith, Kellum, McCollum, and Rogers Halls. Fresh Food's most unique feature is that everything is prepared and cooked before your eyes - emphasizing freshness.
 - The Figg Player's Dining Room or The Center for Sports Nutrition - Located in University Center D, is an all-you-care-to-eat restaurant. The Figg is the exclusive home to Seminole Athletes for lunch but welcomes everyone for breakfast and dinner. Student and Faculty/Staff Meal plans are accepted here as well!

- **East Side Campus Locations**
 - Barrister's Bistro - Located in the College of Law, Barrister's Bistro offers a variety of lunch items, Starbucks beverages, drip coffee and a great study environment.
 - Denny's' All Nighter - Students can come together enjoying the company of their friends and a freshly crafted meal at any hour of the day. From freshly cracked eggs to salads and burgers, Denny's has an endless list of possibilities to fuel your day.
 - Starbucks-Strozier Library - Come see the nation's first double-sided Starbucks. This full service features all of your favorites including frappuccinos, hot breakfast, lunch items, and grab-n-go food.
 - Chick-fil-A - Chick-fil-A is finally here on FSU's campus. Located in the Honors, Scholars, & Fellows House right next to the William Johnston Building, this fan favorite offers a variety of sandwich, salad, wrap, and breakfast options!
 - Rising Roll - Rising Roll Gourmet offers unique gourmet sandwiches, salads, soups, and breakfast dishes made from the freshest ingredients right in their restaurant every day.
 - P.O.D. Market - P.O.D. Market combines the corner store with the style of a modern market, featuring grab'n go dining options for breakfast, lunch or any time of day, including: wraps, sushi and salads, as well as fresh produce, bakery and coffee selections and traditional essentials found in a convenience store.

- **West Side Campus Locations**
 - Starbucks - Our full service Starbucks is conveniently located in the heart of campus between the Integration Statue and the Health and Wellness Center. We offer all your favorite Starbucks beverages, sandwiches and pastries.
 - Energy Zone-Leach Center – Located inside of Leach fitness center, offers fruit, yogurt and juice based smoothies and other healthy options in a fun atmosphere after your workout.
 - Starbucks-Med School - Located in the Medical School off Call Street, The Doctors Inn offers, Grab and Go sandwiches, snack items, Starbucks beverages, drip coffee, and a great study environment.

- Garnet-n-Go Convenience Store - Located at University Center A, at the bus stop roundabout, students can grab a quick drink, snack or even a fresh and tasty lunch on their way to class. The Garnet-N-Go has Einstein Bros Bagels, bottled Coca-Cola products, snacks, fresh salads, sandwiches, wraps, desserts and much more!
- **Oglesby Union – Food Court**
 - Papa John's - Papa John's is conveniently located in the Oglesby Union Food Court in the heart of campus, allowing you to enjoy hand tossed pizzas, gourmet wings, breadsticks, side salads and more.
 - Pollo Tropical - Located in the Union Food Court, Pollo Tropical brings you the flavors of South Florida, right here in Tallahassee. Pollo Tropical's menu of chicken, rice, beans, hearty sides, and more offers healthy alternatives packed with flavor.
 - Miso - Located in the Union Food Court, come enjoy a stir fry meal, made right before your eyes. You get to pick everything from the meat, vegetables, starch and sauce, so you're able to create your own masterpiece. And don't forget about the amazing sushi, made fresh daily.
 - Einstein Bros. - Einstein Bros Bagels offers a wide variety of freshly baked bagels and muffins, gourmet breakfast and lunch sandwiches, hearty soups, signature salads, indulgent desserts and freshly brewed coffee, espresso beverages and frozen blended beverages.
 - Freshens –Freshens offers smoothies and indulgent frozen treats. Enjoy one of their classic Fruit Blended Smoothies, Low Cal Smoothies, Nature's Energy Smoothies or High Protein Smoothies. With over 20 options to choose from, there's something for everyone's taste buds. Freshens also offers premium soft-serve frozen yogurt. Enjoy a cup of your favorite flavor of frozen yogurt and visit the toppings bar for 18 options of fresh fruits, natural nuts and granolas, and splurge toppings. Freshens is proud to introduce handcrafted savory and dessert crepes as the newest addition to our "better for you" product line up. Using only fresh ingredients, our handcrafted crepes are the healthy choice for on the go consumers seeking portability and convenience. Perfect for any time of the day. Stop by Freshens today for an authentic, bold, and “crave-able” treat.
 - The Trading Post -This convenience store is located right in the Oglesby Union. Besides the usual convenience items, such as toothpaste and band-aids, The Trading Post also offers a variety of snacks, grab-n-go items and F'real Milkshakes.
 - Chili's - Our full-service Chili's, located in the Oglesby Union, is a great place to "pepper in some fun!" Catch the game on one of the many high definition big-screen TVs, plus Chili's accepts FlexBucks and GarnetBucks!
 - Salad Creations - At Salad Creations, you can get a fresh and fabulous meal created right before your very eyes. You can choose one of their Chef Created Salads, or you can make your own ideal salad, with tons of options including 4 types of lettuce, tons of "throw-in" toppings, and a variety of homemade dressings (they have gluten free dressings). Add some protein, get it chopped or tossed, and you're good to go. Need some carbs? They also serve freshly made wraps. Subway - Whatever you're in the mood for, Subway has a wide variety of subs, salads, and sides to choose from. Every one of their subs is made fresh in front of you, exactly the way you want it. This cafe style Subway not only allows you to create your own one-of-a-kind sub, but also offers pastries, coffee, and more.

Future Planning:

Aramark continues to focus on long term planning and bringing new and exciting venues to the FSU campus.

- Jefferson Street Urban Eateries – Aramark in Conjunction with The FSU Office of Business Services and University Housing are in the early stages of developing a new food services facility.

This new location will be on the first floor of the proposed Jefferson Street Residence Hall complex. The facility is being designed to mimic a large city downtown urban eateries area similar to Portland or New York City.

- Starbucks Dirac – In keeping with FSU's tradition of placing Starbucks coffee shops within learning environments Aramark will be opening a new location on the 1st floor of the Dirac Library.

Exhibit B

Sales By Location

FY13/14 Location Sales													Sales Total
Location	August	September	October	November	December	January	February	March	April	May	June	July	
1 Suwannee Room	\$ 259,928	\$ 1,236,147	\$ 939,084	\$ 1,007,427	\$ 926,930	\$ 590,144	\$ 795,967	\$ 967,930	\$ 829,769	\$ 347,198	\$ 289,073	\$ 558,182	\$ 8,747,779
2 Fresh Food Co	\$ 51,779	\$ 827,231	\$ 629,313	\$ 673,908	\$ 608,608	\$ 391,776	\$ 535,660	\$ 644,903	\$ 548,764	\$ 227,939	\$ 198,875	\$ 348,822	\$ 5,689,578
3 Chili's	\$ 45,889	\$ 213,146	\$ 134,471	\$ 149,121	\$ 102,194	\$ 97,333	\$ 150,694	\$ 159,374	\$ 183,758	\$ 60,416	\$ 60,929	\$ 78,009	\$ 1,435,334
4 Starbucks Strozier Library	\$ 39,522	\$ 165,184	\$ 184,492	\$ 170,386	\$ 140,638	\$ 60,402	\$ 164,129	\$ 159,216	\$ 142,844	\$ 85,078	\$ 53,275	\$ 57,800	\$ 1,423,466
5 Catering	\$ 46,323	\$ 145,217	\$ 176,704	\$ 291,755	\$ 146,749	\$ 30,040	\$ 100,450	\$ 147,726	\$ 36,920	\$ 129,060	\$ 83,598	\$ 40,547	\$ 1,375,089
6 Figg Training Table	\$ 107,039	\$ 142,527	\$ 134,448	\$ 142,664	\$ 127,727	\$ 98,261	\$ 108,541	\$ 121,558	\$ 125,167	\$ 61,315	\$ 60,768	\$ 11,383	\$ 1,241,398
7 Subway	\$ 40,844	\$ 173,017	\$ 125,742	\$ 112,580	\$ 82,261	\$ 78,794	\$ 119,958	\$ 113,245	\$ 92,481	\$ 56,557	\$ 48,186	\$ 61,517	\$ 1,105,182
8 Chic-fil-A	\$ -	\$ -	\$ 148,336	\$ 138,518	\$ 105,839	\$ 77,543	\$ 143,901	\$ 150,060	\$ 133,178	\$ 74,421	\$ 46,112	\$ 80,877	\$ 1,098,785
9 Denny's	\$ 672	\$ 59,885	\$ 48,099	\$ 49,399	\$ 29,123	\$ 67,478	\$ 180,476	\$ 186,805	\$ 79,171	\$ 38,400	\$ 2,756	\$ 27,095	\$ 769,359
10 Einstein's	\$ 18,895	\$ 93,400	\$ 72,229	\$ 65,975	\$ 48,592	\$ 42,849	\$ 68,509	\$ 70,520	\$ 67,619	\$ 36,596	\$ 63,477	\$ 30,317	\$ 679,248
11 Starbucks Main	\$ 9,709	\$ 71,916	\$ 74,591	\$ 66,468	\$ 44,523	\$ 35,442	\$ 61,916	\$ 56,257	\$ 53,806	\$ 25,972	\$ 47,205	\$ 20,003	\$ 567,807
12 Pollo Tropical	\$ 11,025	\$ 73,187	\$ 55,648	\$ 51,219	\$ 33,042	\$ 34,209	\$ 56,090	\$ 57,945	\$ 49,690	\$ 24,054	\$ 23,743	\$ 22,487	\$ 492,339
13 Trading Post - C-Store	\$ 9,921	\$ 63,736	\$ 56,406	\$ 45,461	\$ 29,132	\$ 25,448	\$ 46,710	\$ 50,325	\$ 52,829	\$ 22,947	\$ 19,761	\$ 15,081	\$ 437,757
14 Papa John's	\$ 5,860	\$ 50,610	\$ 37,263	\$ 33,778	\$ 21,490	\$ 21,492	\$ 34,235	\$ 34,672	\$ 33,133	\$ 13,757	\$ 12,711	\$ 11,273	\$ 310,274
15 Salad Creations	\$ 6,986	\$ 48,248	\$ 34,467	\$ 28,786	\$ 19,652	\$ 19,118	\$ 31,650	\$ 34,889	\$ 35,365	\$ 8,800	\$ -	\$ -	\$ 267,961
16 Rising Roll	\$ -	\$ -	\$ 43,779	\$ 37,739	\$ 25,724	\$ 17,994	\$ 38,782	\$ 35,319	\$ 27,494	\$ 12,907	\$ 9,591	\$ 14,023	\$ 267,720
17 Freshens - Union	\$ 4,770	\$ 35,041	\$ 23,290	\$ 15,317	\$ 9,889	\$ 10,448	\$ 19,927	\$ 20,720	\$ 19,981	\$ 9,613	\$ 12,580	\$ 19,834	\$ 201,410
18 POD - C-Store	\$ -	\$ -	\$ 27,619	\$ 27,718	\$ 20,032	\$ 13,575	\$ 27,886	\$ 27,336	\$ 26,852	\$ 9,820	\$ 2,578	\$ 9,758	\$ 193,174
19 Garnet-n-Go	\$ 6,253	\$ 25,223	\$ 21,158	\$ 23,932	\$ 13,190	\$ 9,882	\$ 18,303	\$ 20,185	\$ 20,588	\$ 8,029	\$ 12,934	\$ 9,526	\$ 188,283
20 Energy Zone - Leach	\$ 3,394	\$ 27,372	\$ 20,479	\$ 15,449	\$ 9,641	\$ 12,998	\$ 23,573	\$ 20,908	\$ 19,337	\$ 4,355	\$ 1,717	\$ 8,882	\$ 169,305
21 Miso	\$ 2,402	\$ 22,603	\$ 17,863	\$ 15,209	\$ 8,999	\$ 9,404	\$ 16,034	\$ 16,868	\$ 16,316	\$ 5,609	\$ 6,414	\$ 6,748	\$ 144,469
22 Medical School	\$ 6,458	\$ 15,557	\$ 14,888	\$ 13,821	\$ 7,360	\$ 6,743	\$ 11,972	\$ 12,318	\$ 12,387	\$ 6,349	\$ 9,996	\$ 6,401	\$ 124,150
23 National High Magnetic Lab	\$ 5,125	\$ 6,218	\$ 5,562	\$ 5,073	\$ 5,456	\$ 3,041	\$ 5,065	\$ 6,177	\$ 5,010	\$ 4,294	\$ 6,927	\$ 5,158	\$ 63,106
24 Law School	\$ -	\$ 7,888	\$ 8,679	\$ 8,145	\$ 4,507	\$ 2,307	\$ 7,132	\$ 7,621	\$ 6,563	\$ 2,112	\$ -	\$ -	\$ 54,954
25 Club Down Under	\$ -	\$ 7,996	\$ 5,222	\$ 19,627	\$ 1,080	\$ 985	\$ 2,438	\$ 832	\$ 2,469	\$ 693	\$ -	\$ 94	\$ 41,436
26 Turnbull Center	\$ 526	\$ 3,337	\$ 3,872	\$ 3,210	\$ 1,276	\$ 1,297	\$ 2,176	\$ 2,131	\$ 2,039	\$ 460	\$ 102	\$ 129	\$ 20,555
	\$ 683,320	\$ 3,514,686	\$ 3,043,704	\$ 3,212,885	\$ 2,573,654	\$ 1,758,403	\$ 2,777,174	\$ 3,125,840	\$ 2,623,510	\$ 1,276,751	\$ 1,073,078	\$ 1,443,946	\$ 27,101,951

Exhibit C

Select Square Footages and Seating Capacities

Site Information	SQ FT	SEATING
Suwannee Room	13,000	350
Fresh Food Co	15,500	350
Chili's		234
Starbucks Strozier Library		Walk Up
Figg Training Table		150
Subway		85
Chic-fil-A		125 + 30 Patio
Denny's		110
Einstein's		12
Starbuck's Main		6 + 20 Outside
Pollo Tropical		250 Main Food Court
Trading Post - C-Store		N/A
Papa John's		Part of Food Court
Salad Creations		4
Rising Roll		Shared with Chic-fil-A
Freshens - Union		Part of Food Court
POD - C-Store		N/A
Garnet-n-Go		8 Outdoor
Energy Zone - Leach		Walk Up
Miso		Part of Food Court
Medical School		20
National High Magnetic Lab		12
Law School		Walk Up
Club Down Under		100
Turnbull Center		Walk Up
	Total Seats	1,866

XI. DEFINITIONS AND SPECIAL TERMS AND CONDITIONS

SEALED SOLICITATION – SPECIAL TERMS AND CONDITIONS

All **Respondents** and other participants of this **CS** agree that they have read and fully understand these terms and agree to be bound thereby.

1.0 DEFINITIONS FOR SPECIAL TERMS & CONDITIONS

CONTRACT/ AGREEMENT

All types of agreements entered into by FSU and the Contractor, regardless of what they may be called, for the procurement of materials, services, or the disposal of materials. Meaning is interchangeable.

BIDDER/RESPONDER/PROPOSER

Any firm that sends a response to a CS.

COMPETITIVE SOLICITATION (CS)

A documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria outlined in the CS process.

CONTRACTOR

Contractor is a successful proposer, which along with FSU, will enter into the Contract. FSU may make multiple awards, but for sake of convenience the solicitation documents use the singular form of this term. If a Contractor is a manufacturer, its certified dealers and resellers may also furnish products under the Contract; in choosing to do so, the dealers and resellers agree to honor the Contract and the term "Contractor" shall be deemed to refer to them. Unless awarded the Contract as a direct proposer, however, dealers and resellers are not parties to the Contract, and the Contractor that certifies them shall be responsible for their actions and omissions.

CUSTOMER

Unless otherwise implied by the context of the specific provision within this CS, "Customer" means the University/FSU and other eligible users.

MAY, SHOULD

Indicates something that is not mandatory, but permissible, recommended, or desirable.

MUST, SHALL, WILL

The words "shall", "must", or "will" are equivalent and indicate mandatory requirements or conditions. FSU will not waive Responder's material deviation from any of the mandatory requirements.

PROPOSAL/RESPONSE

The entirety of the bidder's/responder's/proposer's submitted responses to each point of a CS, including any and all supplemental offers or information not explicitly requested within the CS.

PROPRIETARY INFORMATION

Information held by the owner that, if released to the public or anyone outside the owner's organization, would be detrimental to its interests. It is an issue of fact rather than opinion. Pricing and/or revenues shall not be considered proprietary.

PURCHASE ORDER

Purchase Order or Order means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, or any other means authorized in writing by contract manager).

SUCCESSFUL BIDDER/RESPONDER/PROPOSER

The firm selected by the University to receive a notice of award as a result of a CS and to enter into a contract to provide the University with products or services sought by that solicitation.

UNIVERSITY

Florida State University, Florida State University Board of Trustees is a public body corporate of the State of Florida.

SPECIAL TERMS AND CONDITIONS

1.1 SOLICITATION RESPONSE SUBMISSION AND RESPONSIBILITY

a. All responses must contain the Acknowledgement Form with a manual signature (or a facsimile) in the appropriate space above. Responses must be typed except for those areas where the solicitation specifically allows hand written entries. If submitted by mail, do not include more than one response in an envelope. The face of the envelope shall contain the Procurement Services address as provided in this CS, the date and time of the response opening and the solicitation number. Responses not submitted on any attached response form or in another specified media may be rejected. Any manual changes made to a solicitation price must be initialed. All responses are subject to the conditions specified herein. Any response that does not comply with these conditions will be rejected.

b. DO NOT ALTER THIS CS document IN ANY WAY. The only acceptable changes or alterations to this CS will be made in the form of addenda and issued only by the FSU Procurement Department.

c. Fully capable and responsible Companies, who are in good standing with the State of Florida and Florida State University who can demonstrate the ability to fulfill all specifications, and that possess the financial capability, experience, and personnel resources to provide all goods and services of the scope and breadth described in this CS.

d. The company submitting the response warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish its ability to satisfy Contract obligations, should a contract be awarded.

e. A solicitation response that is considered responsive is one that conforms to all essential requirements and satisfies all mandatory conditions set forth in the solicitation specifications. Essential requirements and mandatory conditions can include required qualifications, necessary company resources and experience, pre-qualification requirements, required certifications, and various other required or mandatory specifications. Florida State University defines a "responsive bid," "responsive proposal," or "responsive reply" as "a bid, or proposal, or reply submitted by a responsive and responsible vendor that conforms in all material respects to the solicitation." Florida State University defines a "responsive vendor" as "a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

f. A proposer is responsible if it can perform the contract as promised. Thus, the concept of responsibility focuses on the contractor's trustworthiness, quality, fitness and capacity to satisfactorily perform. Determining whether a proposer is responsible can include evaluation of the following: financial resources, performance schedule, performance record, organization and skills, equipment and facilities, and various other matters relating to the ability of a vendor to perform the contract. Florida State University defines a "responsible vendor" as "a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance."

1.2 DELIVERY ADDRESS

CSs sealed in a clearly identified envelope will be accepted at the following address:

Procurement Services Department
Florida State University
A1400 University Center
Tallahassee, Florida 32306-2370

Note: Delivery to any other point on, or off, campus is NOT acceptable and shall be grounds for rejection of the CS.

DELIVERY DEADLINE

The absolute deadline for receipt of sealed responses is listed in this CS. The clock in the lobby of Procurement Services shall be the official timepiece for determining if a response has been received at the correct time. FSU is not responsible for lost, misdirected or mis-delivered, or late response packages for responder(s) using delivery services/carriers, i.e. (USPS, FedEx, DHL, UPS, etc.).

1.3 NO RESPONSE SUBMITTED

If not submitting a response to this solicitation, respond by returning only the CS acknowledgement form with the statement “**NO RESPONSE**” written on it and a brief explanation in the space provided above. Failure to respond to a Solicitation by not returning a response or this acknowledgement form may result in removal of your firm from the University’s CS Bidder database. To qualify as a respondent, vendor must submit a “**NO RESPONSE**” and it must be received no later than the stated date and time noted in the CS.

1.4 PRICES, TERMS AND PAYMENT

Prices offered shall be firm and include all packing, handling, shipping charges and delivery to the destination shown herein.

- a) **TAXES:** The University, as an agency of the State of Florida, is entitled to the benefits of sovereign immunity including immunities from the payment of federal excise and state sales taxes on direct purchases of tangible personal property or services by the Vendor in the performance of the contracts with the University.
- b) **DISCOUNTS:** A cash discount for prompt payment may be offered. However, such discounts shall not be considered in determining the lowest net cost for response evaluation purposes. Discounts will be computed from the date of satisfactory delivery at place of acceptance or from receipt of a correct invoice at the office specified, whichever is later. Responders are encouraged to reflect cash discounts in the unit prices proposed.
- c) **MISTAKES/ERRORS:** Responders are expected to examine the specifications, delivery schedule and all instructions pertaining to supplies and services. Failure to do so will be at Responder's risk. In case of a mistake in extension, the unit price will govern.
- d) **CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this CS shall be a new, current standard production model available at the time of this response. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
- e) **SAFETY STANDARDS:** Unless otherwise stipulated in the CS, all manufactured items and fabricated assemblies shall comply with applicable requirements of Occupational Safety and Health Act and any standards thereunder.
- f) **UNDERWRITERS' LABORATORIES:** Unless otherwise stipulated in the CS, all manufactured items and fabricated assemblies shall carry U.L. approval and reexamination listing where such has been established.
- g) **INVOICING AND PAYMENT:** All payments made by the University are subject to University Policy and Rules as approved by the University's Board of Trustees. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from the University, may be contacted by calling Edward Acoff in the FSU Procurement Services Department at (850) 644-6850.
- h) **ELECTRONIC INVOICING:** At the University’s option, Contractors may be required to invoice electronically pursuant to guidelines established by the University.

1.5 TRAVEL

In the event that the contract resulting from this CS requires the successful responder to travel on behalf of the University, travel expenses included in this agreement must be in accordance with and submitted in compliance with S. 112.061 Florida Statutes.

1.6 DELIVERY

Unless actual date of delivery is specified (or if specified delivery cannot be met), show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be within the normal working hours of the university, Monday through Friday, unless otherwise specified.

1.7 MANUFACTURER'S NAMES, APPROVED EQUIVALENTS, BEST VALUES, OR SOLUTIONS

Any manufacturers' names, trade names, brand names, or catalog numbers used in the specifications are there for the purpose of establishing and describing general performance and quality levels. Such references are not intended to be restrictive, and responses are invited on comparable brands or products of any manufacturer. The responder may offer any equivalent brand or product that meets or exceeds the specifications for an item(s). However, a Responder shall not be allowed to offer more than one brand or equivalent product on any one item. It is the Responder's responsibility to select the single equivalent brand or product that his/her firm sells which meets all specifications and is the lowest in cost. If a responder offers more than one equivalent brand or product on an item, only the equivalent brand or product offering the lowest response shall be considered. If an offer is based on an equivalent brand or product, the manufacturer's name and number must be indicated on the response form. Responder shall submit with the response cuts, sketches, and descriptive literature, and/or complete specifications. Reference to literature submitted with a previous response will not satisfy this provision. The Responder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. In addition, if a responder has more than one best value or solution for a Request for Proposal or Invitation to Negotiate, they should base their offer on the best value or solution that meets the University's requirements in the written phase of the solicitation process. Florida State University reserves the right to determine acceptance of item(s) as an approved equivalent or best values and solutions. Responses which do not comply with these requirements are subject to rejection. Responses lacking any written indication of intent to offer an alternate brand will be received and considered in complete compliance with the specifications as listed on the solicitation form. The Director of Procurement is to be notified of any proposed changes in (a) materials used, (b) manufacturing process, or (c) construction. However, changes shall not be binding upon the University unless evidenced by an addendum issued by the Procurement Department.

1.8 CONFLICT OF INTEREST

The award hereunder is subject to the provisions of Chapter 112, F.S. All respondents must disclose with their response the name of any officer, or agent who is also an employee of the State of Florida, or any of its agencies. Further, all respondents must disclose the name of any State employee who owns, directly or indirectly, an interest of five (5) percent or more in the respondent's firm or any of its branches.

1.9 AWARDS

The University reserves the right to make award(s) by individual item, group of items, all or none, or a combination thereof; to reject any and all responses or waive any minor irregularity or technicality in responses received. When it is determined there is competition to the lowest responsive responder, evaluation of the other responses is not required. Responders are cautioned to make no assumption unless their response has been evaluated as being responsive.

1.10 ADDITIONAL QUANTITIES

For a period not exceeding ninety (90) days from the date of acceptance of this offer by the university, the right is reserved to acquire additional quantities up to the amount shown on the

solicitation, but not to exceed \$75,000, at the prices listed on the response to this CS. If additional quantities are not acceptable, the response sheets must be noted "RESPONSE IS FOR SPECIFIED QUANTITY ONLY."

1.11 SERVICE AND WARRANTY

Unless otherwise specified, the responder shall define any warranty service and replacements that will be provided during and subsequent to this contract. Responders must explain on an attached sheet to what extent warranty and service facilities are provided.

1.12 SAMPLES

Samples of items, when called for, must be furnished free of expense, on or before solicitation opening time and date, and if not destroyed, may, upon request, be returned at the responder's expense. Each individual sample must be labeled with responder's name, manufacturer's brand name and number, solicitation number and item reference. A request for return of samples shall be accompanied by instructions which include shipping authorization and name of carrier and must be received with your response. If instructions are not received within this time, the commodities shall be disposed of by Florida State University.

1.13 NONCONFORMANCE TO CONTRACT CONDITIONS

Items may be tested and/or inspected for compliance with specifications by any appropriate testing facilities. Should the items fail testing, the University may require the respondents to reimburse the University for all costs incurred by the University in connection with the examination. The data derived from any test for compliance with specifications are public records and open to examination thereto in accordance with Chapter 119, F.S. Items delivered not conforming to specifications may be rejected and returned at vendor's expense. Items delivered which do not comply with the CS specification and items not delivered as per delivery date in solicitation and/or purchase order may result in responder being found in default. In which event, any and all reprourement costs may be charged against the defaulting vendor. Any violation of these stipulations may also result in respondent's name being removed from the Procurement Department's vendor distribution list.

1.14 INSPECTION, ACCEPTANCE AND TITLE

Inspection and acceptance will be at the destination location unless otherwise provided. Title and risk of loss or damage to all items shall be the responsibility of the vendor named on the purchase order until accepted by the University, unless loss or damage results from negligence by the University. The vendor named on the purchase order shall be responsible for filing, processing and collecting all damage claims. However, to assist vendor in the expeditious handling of damage claims, the University will:

- a. Report any evidence of visible damage on all copies of the delivering carrier's Bill of Lading.
- b. Report damage (visible and concealed) to the carrier and contract respondent, confirming such reports in writing, within 15 days of delivery, requesting that the carrier inspect the damaged merchandise.

1.15 GOVERNMENTAL RESTRICTIONS

In the event any governmental restrictions may be imposed which would necessitate alteration of the terms of the contract resulting from this CS, it shall be the responsibility of the successful Responder to immediately notify the University in writing, indicating the specific regulation which requires the alteration. The University reserves the right to accept any such alteration, including any fee adjustments occasioned thereby, or to cancel the contract at no expense to the University.

1.16 LEGAL REQUIREMENTS

Applicable provisions of all Federal, State, county and local laws, and of all ordinances, rules and regulations shall govern development, submittal and evaluation of all responses received in response hereto and shall govern any response by Florida State University by and through its officers, employees, and authorized representatives, or any other person, natural or otherwise. Lack of knowledge by any responder shall not constitute a cognizable defense against the legal effect thereof.

1.17 LOBBYING AND GRATUITIES

a. It shall be a breach of ethical standards for any employee of the University or member of the University Board of Trustees to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services.

b. The Contractor shall not, in connection with this or any other agreement with the University, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any University officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any University officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

c. Vendor is prohibited from using funds provided under any contract or purchase order for the purpose of lobbying the Legislature or any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government.

1.18 PATENTS AND ROYALTIES

The Contractor warrants that as to each Deliverable produced pursuant to this Contract, Contractor's production of the Deliverable, and the University's use of the Deliverable, will not infringe on the copyrights of any third party. This provision applies to each work of authorship in which copyrights subsist pursuant to 17 U.S.C Sections 102-105 and to each exclusive right established in 17 U.S.C. Section 106. In furtherance of this provision the Contractor additionally warrants that:

(a) As to each work of software or other "information technology" in which copyrights subsist, the Contractor has acquired the rights by conveyance or license to any third party software or other information technology, which was used to produce the Deliverable;

(b) As to each image or sound is included, or from the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual work or sound recording from which the included image or sound recording was taken.

Intellectual property is subject to the following additional provisions:

(a) Anything by whatsoever designation it may be known, that is produced by, or developed in connection with, this Contract shall become the exclusive property of Florida State University and may be copyrighted, patented, or otherwise restricted as provided by Florida or federal law. Neither the Contractor nor any individual employed under this Contract shall have any proprietary interest in the product.

(b) With respect to each Deliverable that constitutes a work of authorship within the subject matter and scope of U.S. Copyright Law, 17 U.S.C. Sections 102-105, such work shall be a "work for hire" as defined in 17 U.S.C. Section 101 and all copyrights subsisting in such work for hire shall be owned exclusively by the University pursuant to s. 1006.39, F.S., on behalf of the State of Florida.

- (c) In the event it is determined as a matter of law that any such work is not a “work for hire”, Contractor shall immediately assign to the Department all copyrights subsisting therein for the consideration set forth in the Contract and with no additional compensation.
- (d) The foregoing shall not apply to any preexisting software, or other work of authorship used by Contractor, to create a Deliverable but which exists as a work independently of the Deliverable, unless the preexisting software or work was developed by Contractor pursuant to a previous Contract with the University or a purchase by the University under a State Term Contract.
- (e) The University shall have full and complete ownership of all software developed pursuant to the Contract including without limitation:
 1. The written source code;
 2. The source code files;
 3. The executable code;
 4. The executable code files;
 5. The data dictionary;
 6. The data flow diagram;
 7. The work flow diagram;
 8. The entity relationship diagram; and
 9. All other documentation needed to enable the University to support, recreate, revise, repair, or otherwise make use of the software.

The responder, without exception, shall indemnify and save harmless Florida State University and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of any purchase order resulting from this solicitation, including its use by Florida State University. If the responder uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the response price shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

1.19 ADVERTISING

In submitting a response, responder agrees not to use the results therefrom as a part of commercial advertisement.

1.20 DISQUALIFICATION OF RESPONDER

Only one response from an individual, firm, partnership, corporation or association under the same or different names will be considered. Reasonable grounds for believing that a responder is involved in more than one response for the same item will be cause for rejection of the highest response in which such responders are believed to be involved. Any or all responses will be rejected if there is reason to believe that collusion exists between responders. Responses in which the prices obviously are unbalanced will be subject to rejection.

1.21 ADDITIONAL TERMS AND CONDITIONS

Sealed bids, proposals, or replies received by the University pursuant to a CS are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. All material submitted and opened becomes subject to the Public Records Law set forth in Chapter 119 F.S. This includes material which the responder might consider to be confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening pursuant to Section 119.07, F.S. Any resulting Agreement may be unilaterally canceled for refusal by the vendor to allow public access to all documents, papers, letters, or other materials subject to the provisions of Chapter 119 F.S., and made or received by the successful vendor in conjunction with the Agreement.

1.22 UNAUTHORIZED ALIENS

The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any purchase order resulting from this CS.

1.23 VENDOR POINT OF CONTACT

Each Responder shall identify in its submittal the single point of contact for all matters in relation to the response. The CS will be signed by a person or persons legally authorized to bind the prospective vendor to this CS.

1.24 PUBLIC INSPECTION

In accordance with Florida Statutes, sealed bids, proposals, or replies received by the University pursuant to a CS are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the CSs, proposals, or final replies, whichever is earlier.

1.25 WRITTEN COMMUNICATIONS REQUIRED

Only those communications that are in writing from the **University Procurement Services Department** shall be considered as a duly authorized expression on behalf of the University. Also, the University will recognize only communications from Responders that are signed and in writing as duly authorized expressions on behalf of the Responder.

Respondents to this solicitation or persons acting on their behalf shall not contact any employee or officer of Florida State University, Board of Trustees, or a University Direct Support Organization concerning any aspect of this solicitation, except in writing to the Chief Procurement Officer or as provided in this solicitation document, from the date of release of this solicitation through the end of the 72-hour period following the University's posting of the notice of intended award, in accordance with Board of Governors (BOG) Regulation I8.002. Violation of this provision may be grounds for rejecting a response.

QUESTIONS DIRECTED TO, OR ANY RESPONSES RECEIVED FROM ANY OTHER DEPARTMENT, PERSON, AGENT, OR REPRESENTATIVE OF THE UNIVERSITY WILL NOT BE CONSIDERED VALID OR BINDING.

1.26 VERBAL COMMUNICATIONS

Responders may not consider any verbal instructions as an official expression on the University's behalf. Only written communications, signed by a duly authorized representative of the Procurement Services Department shall be considered valid.

1.27 FORMAL OFFER

A Respondent's written submission in response to this CS shall be considered as the Respondent's formal offer. The content of the solicitation, the Respondent's submission in response to the solicitation, and resulting contract/purchase order(s) shall be considered the entire agreement between the successful Vendor and the University. It is understood and agreed that nothing herein is intended, or should be construed, as constituting the Vendor as the agent or representative of the University for any purpose or in any manner whatsoever. The Vendor is, and shall remain, an independent contractor operating in accordance with the terms and conditions of the license granted as a result of this CS.

1.28 INTERPRETATIONS

Responders shall examine the CS to determine if the University's requirements are clearly stated. If there are any requirements that are too vague or restrict competition, the Responder may request, in writing, that the Specifications be changed. A Responder who requests changes in the Specifications must identify and describe the Responders difficulty in meeting the University's specifications; must provide detailed justification for the change, and must provide a recommended change to the Specification. Any questions concerning solicitation conditions and

specifications shall be directed in writing to the Procurement Services Department for receipt by the date specified in the Calendar of Events. If no date is shown, then no later than five (5) days prior to the solicitation opening unless otherwise indicated in the solicitation document. Inquiries must reference the date of solicitation opening and solicitation number. No interpretation shall be considered binding unless provided in writing by the University in response to a request in full compliance with this provision. Oral or late requests will not be valid.

A Responder's failure to request changes by the permissible date shall be considered acceptance of the University's Specifications and a waiver of the Responders right to protest the CS on the basis of Specifications. The University reserves the right to determine which changes to the CS shall be acceptable to the University. If required, the University shall issue an addendum reflecting the changes to the CS. This addendum shall be posted to the Procurement Services website so that each is given the opportunity of submitting a response to the same Specification. Said Specifications shall be considered the University's minimum mandate requirements.

1.29 CS TABULATION

A CS Tabulation that serves as the "Notice of Intended Decision" will be posted for review by interested parties on the University Procurement Services Department's website (<http://www.procurement.fsu.edu/VENDOR-INFORMATION/Notice-of-Intended-Decision>) and will remain posted for a period of seventy-two (72) hours. Any person who is adversely effected by the University decisions or intended decisions as detailed above in connection with this CS, shall file a written "Notice of Protest" with the Director of Procurement or issuing office. Failure to file a Protest within the time prescribed in accordance with BOG Regulation 18.002 and FSU Regulation FSU-2.015, or failure to post the bond or other security as required in BOG Regulation 18.003. shall constitute a waiver of right to protest.

1.30 MANDATORY REQUIREMENTS

Any response that fails to meet mandatory Specifications stated in the CS shall be rejected. Any response that does not comply with the functional, cost or contractual requirements in the CS shall be rejected. The University shall not be liable to pay for information obtained from or through any Responder prior to issuing the purchase order to the successful Responder.

1.31 MINOR IRREGULARITIES

The University reserves the right to waive minor irregularities in CS's, providing such action is in the best interest of the University. Minor irregularities are defined as those that have no adverse affect on the University's interest, will not affect the amount of the CS and will not give a Responder an advantage or benefit not enjoyed by another Responder.

1.32 CS MATERIALS

The materials submitted in response to this CS become the property of the University upon delivery to the Procurement Services Department.

1.33 RESPONSE REJECTION

The University shall have the right to reject any or all responses, and in particular reject a response not received by the date required by the Solicitation, or a response that is in any way incomplete or irregular, including omissions of pricing. Conditional responses will not be accepted.

1.34 CONFLICT BETWEEN DOCUMENTS

If any terms and conditions contained within the documents related to this CS are in conflict with any other terms and conditions contained therein, then the various documents comprising this CS, as applicable, shall govern in the following order of precedence: Change Order, Purchase Order, Addenda, CS Special Terms and Conditions, CS Specifications, General Conditions of the CS Acknowledgement Form.

1.35 ADDITIONS, DELETIONS, SUBSTITUTIONS

Should the University find it necessary to supplement, modify, correct, or interpret any portion of the CS during the Solicitation period, such action shall be taken by issuance of a written Addendum to the documents distributed to all known prospective responders.

1.36 ACKNOWLEDGMENT

Any addenda issued by the University to participating Responders shall include an "Addenda Acknowledgment Form." This form shall be signed by a company representative, dated and returned to the University by the date specified in the "Calendar of Events" for CSs to be opened.

Failure to return an "Addenda Acknowledgment Form" issued for this solicitation may be grounds for rejection of response.

1.37 PUBLIC RECORD

The successful Responder shall allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by him/her in conjunction with the contract resulting from this CS. Refusal by the successful Responder to allow such public access shall be grounds for cancellation of the contract by the University.

In accordance with s. 119.07 (1) and s. 24 (a), Art. I of the State Constitution, sealed bids, proposals, or replies received by an agency pursuant to a CS are exempt until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the CS, the rejected bids, proposals, or replies remain exempt from s.119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued CS or until the agency withdraws the reissued CS. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

1.38 PUBLIC RECORDS, CONTRACT FOR SERVICES

To the extent that the successful responder meets the definition of "contractor" under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, the successful responder must comply with public records laws, including the following provisions of Section 119.0701, Florida Statutes:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- (b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

If the successful responder does not comply with a public records request, FSU shall enforce the contract provisions in accordance with the contract.

1.39 PUBLIC RECORDS ACCESS

The University may immediately cancel this Agreement in the event the successful responder refuses reasonable public access to all documents, papers, letters, or other materials made or received by the successful responder in conjunction with this Agreement, unless the reports are exempt from Section 24(e) of Article I of the Florida Constitution or Section 119.07(1), Florida Statutes.

1.40 AMENDMENTS

Any amendments, alterations or modifications to the contract resulting from this CS must be in the form of a change order to the original contract and have the written approval of the Procurement Services Department and must be signed or initialed and approved by the same signatories noted on the contract.

1.41 VALIDITY

The laws of the State of Florida shall govern the validity, construction, and effect of any purchase order/contract or change order.

1.42 AVAILABILITY OF FUNDS

The obligations of the University under any resulting award shall be subject to the availability of funds lawfully appropriated annually for its purposes by the Legislature of Florida and other funding sources.

Any contract for the purchase of services or tangible personal property for a period in excess of one fiscal year shall include the following statement: "The State of Florida's and University's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

1.43 ASSIGNMENT

Under no circumstances shall the successful Responder assign to a third party any right or obligation of successful Responder pursuant to this CS without prior written consent of the University. If the successful Responder is, or during the term of the contract resulting from this CS, becomes an individual on the payroll of the State of Florida, successful Responder represents that he or she has complied with all applicable provisions in the Florida Statutes and FSU Regulations regarding outside or dual employment and compensation.

1.44 USE BY OTHERS

With the consent and agreement of the successful responder, purchases may be made under this CS by other universities, government agencies or political subdivisions within the State of Florida. Such purchases shall be governed by the same pricing, terms, and conditions stated herein with no deviations allowed. This agreement in no way restricts or interferes with the right of any public agency or political subdivision to seek their own CS for any or all of the items or services independently.

1.45 JURISDICTIONAL APPLICABILITY

Applicable provisions of all federal, State of Florida, county and municipal statutes, laws, ordinances, rules and regulations shall govern any CS submitted hereto and any resulting contract. Lack of knowledge by any Responder shall not constitute a cognizable defense against the legal effect thereof. Disputes arising from, or in connection with, the contract shall be determined before a Florida court of competent jurisdiction or through an applicable administrative proceeding whichever is appropriate to the circumstances under Florida law. In the event that either party is required to obtain any permit, license or authorization as a prerequisite to performing its obligation under the contract, the cost shall be borne by the party required to obtain the permit, license or authorization.

1.46 PUBLIC ENTITY CRIME

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 for a period of 36 months following the date of being placed on the convicted vendor list.

1.47 CANCELLATIONS

a. Without Cause

For the protection of both parties, any contract entered into as a result of this CS may be canceled without cause or without penalty, in whole or in part by either party by giving a thirty (30) day prior notice in writing to the other party.

b. Cancellation with Cause

Orders or contracts resulting from the award will be subject to immediate cancellation if either the product or the service does not comply with the CS specifications.

1.48 EQUAL OPPORTUNITY

a. The Vendor must at all times during the term of the contract be in compliance with all federal, state and local laws, rules and regulations relating to the nondiscrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without race, creed, color, sex, religion, national origin, age, disability, veterans' or marital status, sexual orientation, gender identity, gender expression, or any other protected group status and the implementing rules and regulations prescribed by the Secretary of Labor are incorporated herein. The applicable sections, rules and regulations referenced above are hereby incorporated into the terms and conditions of this CS.

b. This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), (or for construction contractors, 41 CFR § 60-4.3(a)), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

1.49 GOVERNMENTAL ACTION

It is mutually agreed that if at any time during the term of the contractual agreement the Vendor is required to make extensive program changes, as a direct result of any determination, or action by any applicable Federal, State, or Local Government authority, the University will be willing to negotiate any unit cost increase necessitated by such changes, subject to availability of funds. Any negotiated price increase may not be implemented until a contract amendment signed by both parties is processed through Florida State University Procurement Services Department.

1.50 PARKING

If the contractor provides onsite services, the contractor shall observe campus parking rules and regulations at all times. No properly issued citation will be waived. Parking for contractor personnel and vehicles shall be in those areas so designated by Parking Services.

If the Contractor's agent uses any University controlled parking facility, it will be necessary to purchase a parking permit from the Parking Services Office. It will be the responsibility of the Contractor or its agent to pay any fees required.

1.51 SPECIAL ACCOMMODATIONS

It is recommended that vendor(s) arrive approx. one (1) hour before the start time of the CS sessions if attending. Attendees must follow all University parking regulations. If you have questions regarding where or how to park on campus, please contact Florida State University Parking Services Department at (850) 644-5278. Any person requiring special accommodations should contact Procurement Services at 850-644-6850 and ask for the Sole Point of Contact noted in this CS.

1.52 INSURANCE

The successful responder shall not commence any work in connection with this agreement until they have obtained all the following types of insurance and such insurance has been approved by the purchaser otherwise known as Florida State University Board of Trustees (FSUBOT), nor shall the successful responder allow any subcontractor to commence work on the subcontracted work until the subcontractor has provided proof of insurance for the same amounts as required of the successful responder by FSUBOT and approved. All insurance policies shall be with insurers qualified and doing business in Florida, and with an A.M. Best Rating no less than A-. The FSUBOT shall be furnished proof of insurance by a Certificate of Insurance accompanying the contract documents which shall name Florida State University Board of Trustees as an additional insured. The insurer shall provide 30 days written notice to the certificate holder if a policy is to be canceled before the expiration date of said Certificate.

The FSUBOT shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the successful Responder and/or Subcontractor providing such insurance.

A. Workers Compensation Insurance

The successful Responder shall secure and maintain during the life of the agreement, Worker's Compensation Insurance to all employees of the contractor working on this project. The successful Responder shall also require all subcontractors to provide Worker's Compensation Insurance for their employees working on this project which shall comply fully with the Florida Worker's Compensation Law. In addition, the subcontractor shall list both the Contractor and FSUBOT as an additional insured.

B. Successful Responder's Public Liability and Property Damage Insurance

The successful Responder shall secure and maintain during the life of this agreement, COMPREHENSIVE GENERAL LIABILITY AND COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE naming Florida State University Board of Trustees as an additional insured to protect all parties from claims for damages, personal injury, including accidental death, as well as claims for property damages which may arise from operations under this agreement whether such operations be by the successful responder or anyone directly or indirectly employed by the successful responder. The amount of such insurance shall be set at a minimum amount no less than the following:

- | | |
|---|--|
| 1. Bodily Injury Liability | \$1,000,000 each accident/\$2,000,000 aggregate per occurrence |
| 2. Auto Property Damage Liability | \$1,000,000 each accident/ \$2,000,000 aggregate per occurrence |
| 3. Property Damage Liability- (other than automobile) | \$1,000,000 each accident/\$2,000,000 aggregate per occurrence
\$2,000,000 aggregate operations |

\$2,000,000 aggregate protective
\$2,000,000 aggregate contractual

4. "XCU" (Explosion, collapse, underground damage) --the contractor's liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
 5. Contractual Liability - work contracts—The successful Responder liability policy shall cover such contracts when they are affected.
 6. In some cases a successful Responder and Subcontractor may be required to provide proof of Environmental Protection Coverage.
- C. Subcontractor's Public Liability and Property Damage Insurance
The successful Responder shall require each of the Subcontractors to secure and maintain during the life of this contract; insurance of the same type specified above in addition to insuring the activities of the subcontractors in the event the subcontractor does not have a policy, as specified above.

1.53 LIABILITY

Vendor's entire liability and the University's exclusive remedy shall be as follows:

In all situations involving performance or non-performance of machines or programming furnished under this agreement, the University's (the Buyer) remedy is:

- (a) the adjustment or repair of the machine or replacement of its parts by Vendor, or, at Vendor's option, replacement of the machine or correction of programming errors, or
- (b) if, after repeated efforts, Vendor is unable to install the machine or a replacement machine, model upgrade or feature in good working order, or to restore it to good working order, or to make programming operate, all as warranted, the University shall be entitled to recover actual damages to the limits set forth in this provision. For any other claim concerning performance or non-performance by Seller pursuant to, or in any other way related to the subject matter of, this Agreement or any order under this Agreement, the University shall be entitled to recover actual damages to the limits set forth in this provision.

Vendor's liability for damages to the University for any cause whatsoever, and regardless of the form of action stated herein for the specific machines that caused the damages or that the subject matter of, or are directly related to the cause of action, the foregoing limitation of liability will not apply to:

- (a) the payment of cost and damage awards pertaining to patent and copyright indemnity, or to
- (b) claims for re-procurement costs or the cost of cover pursuant to FSU Regulations.
- (c) claims for personal injury or damage to real or personal property caused by Seller's tortuous conduct.

Vendor shall hold and save the University harmless for any and all suits and judgments against the University and FSU Board of Trustees for personal injury or damage to real or personal property caused by Vendor's tortuous conduct in the performance of this Agreement provided that:

- (a) the University promptly notifies the Vendor in writing of any claim, and
- (b) Vendor shall be given the opportunity, at its option, to participate and associate with the University in the control, defense and trial of any claim and any related settlement negotiations and, provided further, that with respect to any claim, or portion thereof, for

which Vendor agrees at the initiation of such claim that Vendor shall save and hold the University harmless, Vendor shall have the sole control of the defense, trial and any related settlement negotiations, and

- (c) the University fully cooperated with vendor in the defense of any claim.

In no event, however, will Vendor be liable for:

- (a) any damages caused by the University's failure to perform the University's responsibilities, or for
- (b) any lost profits or other consequential damages, even if Seller has been advised of the possibility of such damages, or for
- (c) any claim against the University by any other party, except as provided in the hold harmless provision of the preceding paragraph of this provision and except as provided in the entitled or non-performance or machines or programming located outside the United States or Puerto Rico.

1.54 ARTICLES

It is expressly understood and agreed that any articles which are the subject of, or required to carry out the purchase order resulting from this solicitation, which have been certified by the corporation identified under Chapter 946, F.S., shall be purchased from said corporation in the same manner and under the procedures set forth in Section 946.515(2), (4), F.S.; and for purposes of the purchase order resulting from this Solicitation, the person, firm or other business entity carrying out the provisions of this agreement shall be deemed to be substituted for this agency insofar as dealings with such corporation.

1.55 TOBACCO FREE

For the Health and Wellness of our campus community, the FSU campus is Tobacco-Free. Students, faculty, staff and visitors – including vendors and contractors– will be asked to comply with this policy. Thank you for support of this Healthy Campus initiative. For more information regarding the Tobacco-Free Policy go to: <http://healthynoles.fsu.edu/Tobacco/Florida-State-University-Tobacco-Policy> . For additional information, please visit: www.tobaccofree.fsu.edu.

1.56 MARKS, NAMES, LOGOS, DESIGNATIONS

The successful responder is not authorized to use the names, symbols, emblems, designs, colors, uniforms, logos, designations and other proprietary marks of the University in connection with advertising, merchandising, promotion and sale of Products or services without the prior written approval from the University. The successful responder will be responsible for securing prior approval from the University and for paying a fee to FSU or when using said names, emblems, logos and other FSU designations, when such fee is applicable.

1.57 RETENTION OF RECORDS

The Vendor will maintain all records of sales and royalties paid for no less than five years and make such records available to FSU or an authorized auditor of the University or State of Florida for no less than five years after the termination of an Agreement resulting from this CS.

1.58 FIRM INVESTIGATIONS

Firms shall make all investigations at their own cost, including site visits to the Tallahassee campus, to thoroughly inform themselves regarding the services referenced in the CS terms and conditions. No plea of ignorance by a firm of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the firm to make the necessary examinations and

investigations, or failure to fulfill the requirements of the contract documents will be accepted as a basis for varying the requirements of the contract or the compensation to the firm.

1.59 SUPPLIER DIVERSITY

The University is an equal opportunity institution and, as such, encourages the use of small businesses, including minority, women and veteran-owned small businesses in the provision of goods and services. Small businesses should have a fair and equal opportunity to compete for dollars spent by the University. Competition ensures that prices are competitive and a broad vendor base is available. Vendor shall use good faith efforts to ensure opportunities are available to small businesses, including minority, women and veteran-owned businesses.

For questions about the University's Supplier Diversity Program contact Edward Acoff, Procurement Specialist at 850.645.8207 or FSUSupplierDiversity@admin.fsu.edu

1.60 WORK FOR HIRE

Any work specifically created for the University under a contract resulting from this CS by the Payee or anyone working on behalf of the Payee (the term Payee shall encompass both) shall be considered a "work for hire." All designs, prints, paintings, artwork, sketches, etchings, drawings, writings, photographs, or any other work or material or property produced, developed or fabricated and any other property created hereunder, including all material incorporated therein and all preliminary or other copies thereof, (the "Materials") shall become and remain the property of the University, and, unless otherwise specifically set forth herein, shall be considered specially ordered for the University as a "work made for hire," or, if for any reason held not to be a "work for hire," the Payee who created, produced, developed or fabricated the Materials hereunder assigns all of his/her right, title and interest in the Materials to the University.

The University shall own all right, title and interest in the Materials. The Payee agrees upon request to execute any documents necessary to perfect the transfer of such title to the University. The Materials shall be to the University's satisfaction and are subject to the University's approval. The Payee bears all risk of loss or damage to the Materials until the University has accepted delivery of the Materials. The University shall be entitled to return, at the Payee's expense, any Materials which the University deems to be unsatisfactory. On or before completion of the Payee's services hereunder, the Payee must furnish the University with valid and adequate releases necessary for the unrestricted use of the Materials for advertising or trade purposes, including model and property releases relating to the Materials and releases from any persons whose names, voices or likenesses are incorporated or used in the Materials.

The Payee hereby represents and warrants that, (a) all applicable laws, rules and regulations have been complied with, (b) the Payee is free and has full right to enter into this P.O. and perform all of its obligations hereunder, (c) the Materials may be used or reproduced for advertising or trade purposes or any commercial purposes without violating any laws or the rights of any third parties and (d) no third party has any rights in, to, or arising out of, or in connection with the Materials, including without limitation any claims for fees, royalties or other payments.

The Payee agrees to indemnify and hold harmless the University and those acting for or on its behalf, the FSU Board of Trustees, the State of Florida and the Florida Board of Governors and their respective officers, agents, employees and servants from and against any and all losses, claims, damages, expenses or liabilities of any kind, including court costs and attorneys' fees, resulting from or in any way, directly or indirectly, connected with (a) the performance or non-performance of the University's order by the Payee, (b) the use or reproduction in any

manner, whatsoever, or (c) any breach or alleged breach of any of the Payee's contracts or representations and warranties herein.

1.61 FLORIDA SEXUAL PREDATORS ACT

Any Contractor or Subcontractor who is awarded a contract by the University must comply with F.S. 775.21 relative to the registration of any employee who is a convicted sexual offender or predator. For additional information, contact the FSU Police Department.

1.62 SEXUAL HARASSMENT

Federal law and the policies of FSU prohibit sexual harassment of FSU employees or students. Sexual harassment includes any unwelcome sexual advance toward an FSU employee or student, any request for a sexual favor from an FSU employee or student, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive working environment for FSU employees, or a hostile or an offensive academic environment for FSU students. FSU vendors, subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of FSU employees and students. The employer of any person who FSU, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of the Agreement to cause such person to be removed from the project site and from FSU premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

1.63 MAINTENANCE AND INSTRUCTION MANUALS

The successful responder shall include at least one copy of an instruction manual with each unit supplied. This manual shall include at least a minimum of operating instructions, maintenance and repair information, including schematic diagrams and a list of available replacement parts.

1.64 PROTECTION OF PROPERTY

The successful responder shall, at all times, guard against damage or loss to the property of the University or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The University may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful responder or his agents. The contractor shall provide all barricades and take all necessary precautions to protect buildings and personnel.

1.65 OSHA REGULATIONS

It is the responsibility of the contractor to insure that ALL OSHA regulations applying to this job are adhered to at all times.

1.66 MATERIAL SAFETY DATA SHEET (MSDS)

In accordance with Chapter 442, Florida Statutes, if this purchase order involves the shipping of any item designated as a toxic substance such shipment must be accompanied by a Material Safety Data Sheet (MSDS). A toxic substance is defined as any chemical substance or mixture in gaseous, liquid or solid state, if such substance appears on the "Florida Substance List" promulgated by the Department of Labor and Employment Security; is manufactured, produced, used, applied or stored in the workplace; and causes a significant risk to safety or health during, or as a proximate result of, any customary or reasonable foreseeable handling or use. The MSDS must be maintained by the user agency and must include the following information:

- a) The Chemical name and the common name of the toxic substance.
- b) The hazards or other risks in the use of the toxic substance, including:
 - 1. The potential for fire, explosion, corrosion, and reactivity.
 - 2. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
 - 3. The primary routes of entry and symptoms of overexposure.

- c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
- d) The emergency procedure for spills, fire, disposal, and first aid.
- e) A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.
- f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

Any questions regarding this requirement should be directed to: Department of Labor and Employment Security, Bureau of Industrial Safety and Health, Toxic Waste Information Center, 2551 Executive Center Circle West, Tallahassee, Florida 32301-5014, Telephone: 1-800-367-4378.

1.67 EXPORT CONTROL

The parties shall comply with all applicable U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799 and/or other restrictions imposed by the Treasury Department's Office of Foreign Asset Controls (OFAC), in the performance of an agreement resulting from this CS. The parties agree that no technology, related data or information will be exchanged or disseminated under such agreement nor any collaboration conducted pursuant to such agreement, which are export controlled pursuant to the export control laws of the United States, including the EAR and the ITAR and any other applicable regulations. The Parties agree that the Payee will not provide the University with any ITAR or EAR restricted technology and/or related data, and that any ITAR or EAR restricted technologies and/or data produced in furtherance of the agreement resulting from this CS, if any, will be in the exclusive possession of the Payee and at no time will any export controlled technologies, related data, or information be intentionally or inadvertently transferred to the University, its facilities, labs, staff, researchers, employees, officers, agents, servants or students in the performance of that agreement. If the Payee wishes to disclose export controlled technology or technical data to the University, the Payee will, prior to disclosing any information, technical data or source code that is subject to export controls under federal law, notify the University in writing that the material is export controlled and shall identify the controls that apply. The University shall have the right to decline or limit (a) the receipt of such information, and (b) any task requiring receipt of such information. In the event the Payee sends any such technical data or product that is subject to export control, without notice of the applicability of such export control, the University has the right to immediately terminate the agreement resulting from this CS, if any. The Payee understands and agrees that to the extent the Payee's personnel have access to work or materials subject to U.S. export controls while on University property, such personnel will meet all federal export control regulatory requirements or have the appropriate U. S. government approval.

ATTACHMENT A

**AUTHORITY TO NEGOTIATE
ITN 5722-A FSU CAMPUS WIDE DINING SERVICES CONSULTANT**

Representatives of the Successful Firm(s) selected to participate in negotiation(s) shall be required to submit written authorization satisfactory to the University attesting that the company's lead negotiator is authorized to bind the company to the terms and conditions agreed to during negotiations and as contained in the Firm's best and final offer. Such authorization shall be a prerequisite to continuation in the ITN and negotiation process. The University reserves the right to immediately terminate negotiations with any company whose representatives are not empowered to, or who will not make decisions during the negotiation session(s). The University may elect not to solicit a best and final offer from any company whose representative(s) have been unable or unwilling to commit to decisions reached during the verbal negotiation process. The University shall not enter into extensive contract negotiations with the selected finalist(s) after the negotiation process has been completed. If the University determines that a company awarded a contract based on this ITN does not honor all aspects of the agreement reached during the negotiations in the best and final offer, the University reserves the right to immediately cancel the award.

Person(s) authorized to negotiate in good faith on behalf of this firm for purposes of this Invitation to Negotiate are (list the lead negotiator(s) authorized to bind your company):

Name: _____ Title: _____
Signature: _____ Date: _____

Name: _____ Title: _____
Signature: _____ Date: _____

Signature of Authorized Officer

Printed Name