

COMPETITIVE SOLICITATION  
INVITATION TO NEGOTIATE (ITN) 25-016  
INTERNET ACCESS AND  
WIDE AREA NETWORK (WAN) SERVICES

Issue Date: September 17, 2024

**Response Due Date:**

4700 Research Way  
Lakeland, FL 33805

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# 1.0 Overview

## 1.1 Objective

The Florida Polytechnic University Board of Trustees (the “University”) requests responses from qualified Respondents to provide resilient Internet Access and Wide Area Network (WAN) connectivity services, which must be delivered to the University main campus via two geo-diverse paths, and to auxiliary University sites via similarly fault-tolerant mechanisms.

## 1.2 Scope of Work and Deliverables

All elements of the Scope of Work and contents within this ITN are required contract services therefore, the full scope of work and any deviations must be covered in the Response. Evaluators will score proposals based on the methodologies proposed and the completeness of the response to each item listed below. You must describe in detail how you will meet each requirement. Include personnel, proposed timelines, methodologies, deliverables, and any pertinent information required from the University (“Florida Poly”) to achieve full compliance with all tasks and deliverables.

### 1.2.1 General Requirements

Florida Polytechnic University main campus and extension sites need resilient Internet and WAN services, which must be delivered via geo-diverse circuits configured as redundant services.

Respondent shall provide unique diverse fiber paths from the campus to different core nodes on Respondent’s highly scalable network. Respondent shall have multiple peering connections throughout the State providing transport and Internet access for redundancy. Respondent shall provide the highest level of redundancy for high-speed reliable Internet access via Respondent’s peering agreements with multiple tier one providers.

### 1.2.2 Technical Requirements

1. Florida Polytechnic University main campus: Respondent shall build two new pathways into the campus terminating the service in the BARC (4400 Research Way) and CCC (4545 Research Way) buildings. These unique and diverse paths shall provide 10Gbps of dedicated IP Transit service.
2. Florida Polytechnic University main campus: Respondent shall provide an additional separate two 10Gbps Layer 2 transport circuits to the Florida LambdaRail (FLR) (<https://www.flrnet.org>) network via the highly resilient and scalable network connections. Respondent shall provide two fiber pathways for this. Respondent shall build these two new pathways into the campus terminating the service in the BARC (4400 Research Way) and CCC (4545 Research Way) buildings.
3. Respondent shall provide transport circuits to FLR network via preferred POP locations: 7909 Woodland Center Blvd Tampa FL 33614 and 380 Lake Destiny Drive Orlando FL 32810. Other POP locations, which are not preferred, include 50 NE 9th St Miami 33132 and 9701 S John Young Parkway Orlando FL 32819.
4. Respondent shall provide an IP Address Block /24 Class C.
5. Florida Polytechnic University extension site: Respondent shall provide 1Gbps Metro Ethernet service from the Polk State Campus (3433 Winter Lake Rd) to the CCC (4545 Research Way) and BARC (4400 Research Way) buildings via fault-tolerant mechanisms. Respondent shall leverage Polk County dark fiber network infrastructure.
6. Auxiliary University site: Respondent shall provide 1Gbps Metro Ethernet service from the Florida Industrial and Phosphate Research Institute (1855 West Main Street Bartow) to the CCC (4545

Research Way) and BARC (4400 Research Way) buildings via fault-tolerant mechanisms. Respondent shall leverage Polk County dark fiber network infrastructure.

7. Internet Access will be tested by the Florida Poly Network Operations Team within thirty (30) calendar days of installation. Florida Poly will not accept internet services, or billing from the Respondent until after the services have been successfully tested and verified by the Florida Polytechnic University Operations Team.
8. Respondent shall provide options and services for DDoS Protection, real-time monitoring, automatic mitigation, and reporting. Respondent's network system shall analyze the Internet traffic, identify and mitigate any DDoS attacks. Network service needs to identify anomalies in traffic flows to quickly mitigate attacks before they can negatively impact the service. DDoS Protection service needs to detect, redirect and mitigate any malicious traffic and minimize the impacts of a DDoS attack, ensuring the availability of the network service.

#### 1.2.3 Functional Requirements

1. Customer Service & Support: Respondent shall provide customer and technical support including emergency response assistance and support the service by a Network Operations Center, which should be operated 24x7x365 and dispatched local technicians as required to address any service issues as they arise.
2. Respondent shall provide internet access 24 hours per day, seven days per week for the term of the contract.
3. Respondent is responsible for installing, maintaining, and repairing all cabling and equipment necessary to provide Internet access and WAN services that meet the requirements of this ITN.
4. Respondent shall be prepared to accommodate increased Internet traffic volume and support needs if needed.
5. Performance monitoring: Respondent shall provide reports for the services provided to be accessed at any time by the Florida Polytechnic University Network Operations Team. These reports can be internet bandwidth usage, circuit utilization, uptime/downtime of the services provided, SLA reports, and other reports related to the operations.
6. Respondent shall provide 24/7 monitoring of the network to ensure network health, perform preventative maintenance as required to ensure network reliability and provide guaranteed SLA per device throughout the contract term, including refreshes.

#### 1.2.4 Service Level Guarantees

Describe how you will ensure minimum service level requirements and make these expectations available.

1. Minimum Guarantees:
  - a) Restore: 'full-service restoration'
  - b) Response: physical presence onsite.
2. Restore and Response times:
  - a) Full restoration completed within four (4) hours.
  - b) If full restoration cannot be achieved within the above stated time frames, Florida Poly will be notified immediately upon discovery of such an event that hinders restoration.
  - c) Every hour that service has not been restored Respondent will be responsible for updating the customer of status on the restoration project.
3. Restore and Response Credits:
  - a) The Respondent will agree that penalties for not adhering to the standard response times will result in the following:

- For every 15 minutes beyond the Restore and Response times that ‘full-service restoration’ is not completed, the Respondent will be issued a credit of 5% of the customer’s monthly bill for that site. This will be seen in the form of a credit against the applicable monthly billing statement. If, for example, ‘full-service restoration’ takes 30 minutes beyond Restore and Response time, the credit will be 10% of the our monthly bill.
4. Standards and desired capabilities expected to evolve with emerging technologies and standards:
- a) Standards and Quality of Service Guarantees: At a minimum, all product and service offerings are compliant with applicable standards for the purchased product or service.
  - b) Quality of Service (QoS) Guarantees: Please include a description of the QoS as included in part of the purchase price and define in Tab D. – Financial Proposal. At a minimum, the following types of QoS guarantees are required by Respondent.
    - Percentage of availability
    - Average Response Time
    - Average time to repair reported trouble
  - c) Network Scalability: The ability to increase/decrease delivery of service in number and/or size within a reasonable timeframe.
  - d) Network Survivability: The ability to continue to operate or quickly restore services in the face of unanticipated incidents, disasters, or catastrophes.
  - e) Network Redundancy: Having one or more systems available to sustain the operation of the service in case of failure of the main system.
  - f) Reliability of network – Respondent’s planned network maintenance will not interrupt service. Such an event will be considered a reduction in availability and trigger a request for a credit.
  - g) Scheduled Maintenance –Must be mutually agreed upon at least two (2) days prior to requested maintenance.
  - h) Regular maintenance – submit regular maintenance schedule as determined by industry standards.
  - i) Respondent shall provide a high-level network architecture map/diagram for evaluation of reliable redundant connectivity and services provided.
  - j) Respondent provides a plan for installation and implementation.
  - k) Provide 24/7 continuous network operation support, provide access to incident reports including mitigation details, countermeasures deployed, and impact size.
5. Restore and Response tracking:
- a) The four (4) hour window will start when Florida Poly calls the Respondent directly and opens a repair ticket.
  - b) Once the service has been fully restored, the Successful Respondent will notify Florida Poly of full restoration.
6. Fault Response and Escalation. Respondent will meet or exceed the following service performance requirements for fault response and escalation:
- a) Response time by Respondent: Less than 15 minutes for response and ticket to be generated.
  - b) Response time by Respondent to be onsite to diagnose and repair in case of Network Outage: less than 2 hours.
  - c) Mean time to Repair: less than 4 hours.
  - d) Escalation: When exceeds 4 hours
7. Florida Poly seeks 99.999% uptime for network connections.

### 1.2.5 Optional Services

Provide SIP trunking for external voice calling. University manages its own internal telecommunication systems. Respondent will propose a solution, which must be capable of utilizing SIP trunking to support the existing campus telecommunication systems. Ideally, these redundant connections will be provided via the carrier’s independently owned network and not outsourced or resold through a separate carrier. The capacity of this SIP trunking must accommodate 1000 users simultaneously. Unlimited local and long distance should be provided at no charge. International dialing must also be allowed, and applicable pricing should be included. Florida Poly seeks 99.999% uptime for this service.

### 1.3 Schedule

The anticipated schedule and deadlines for this Competitive Solicitation and contract approval process are projected as follows:

Table 1.3.1: Schedule

Activity	Date	Time (Eastern Time)
Issue Invitation to Negotiate	09/17/2024	N/A
Non-mandatory Site Visit	10/01/2024	9:00 AM (ET)
Deadline for Written Questions	10/04/2024	4:00 PM (ET)
University Responds to Written Questions	10/09/2024	N/A
Response Due Date	10/25/2024	2:00 PM (ET)

The University may post a notice of change to any of the above dates and will provide advance notice of any pre-response meetings by posting the information on the University Procurement Department’s Website, available here:

<https://floridapoly.edu/procurement/solicitations/index.php> (the “Procurement Website”).

Respondent is solely responsible for checking the Procurement Website periodically for changes that have been made to the schedule or whether any additional meetings are scheduled.

The University has the sole discretion to schedule any meetings and the extent, if any, that those attending may participate in such meetings.

#### 1.3.2: Non- Mandatory Site Visit

The non-mandatory site visit is scheduled for October 1, 2024 at 9:00 AM (ET); the meeting will be held in the Innovation Science & Technology Building (IST); Room: Aula Magna 1001.

### 1.4. Definitions

**Addenda/Addendum** – Written or graphic instruments issued prior to the date for opening of responses, that modify or interpret the response documents by additions, deletions, corrections or clarifications.

**Procurement Website-** <https://floridapoly.edu/procurement/solicitations/index.php>

**Respondent**– A firm or individual submitting a Response to this Competitive Solicitation.

**Response** - An executed offer submitted by a Respondent in response to this Competitive Solicitation.

**Successful Respondent** - A recommended recipient of an award of a contract under this Competitive Solicitation.

### 1.5 University Environment

Florida Polytechnic University is a public research institution with a mission to educate students emphasizing science, technology, engineering, and math (STEM) in an innovative, technology- rich, and interdisciplinary learning environment. The University collaborates with industry partners to offer students real-world problem-solving, work experience, applied research, and business leadership opportunities. Florida Poly is institutionally accredited, with several Accreditation Board for Engineering and Technology, Inc. (ABET)- accredited programs, and is ranked by U.S. News & World Report as the No. 1 public college in the south and a top engineering program without a Ph.D. in the nation.

The University is 100% STEM. Its current undergraduate degree offerings include Bachelor of Science programs in:

Applied Mathematics	Data Science
Business Analytics	Electrical Engineering
Computer Engineering	Engineering Physics
Computer Science	Environmental Engineering
Cybersecurity Engineering	Mechanical Engineering

The University currently has Master of Science programs in computer science (Computer Science and Data Science) and in engineering (Computer Engineering, Electrical Engineering, Mechanical Engineering, and Robotics). The University anticipates adding additional programs, including doctoral programs during the life of the Facility.

The University's website, <http://www.floridapoly.edu> provides additional information, which may be useful to the Respondent.



## 2.0 Response Instructions

### 2.1 Response-General Information

1. **Official Name.** Responses must be made in the legal name of the partnership, company, or corporation (“firm”) or individual under which business is conducted and must be signed by a person duly authorized to legally bind the Respondent.
2. **Respondent Reputation and Experience.** Respondents must be of known reputation and have sufficient experience and qualified personnel to adequately perform the prescribed services and provide the goods.
3. **Response Preparation.** Each Respondent must organize its Response in accordance with the *Response-Required Tab Contents* and *Submission Instructions* sections below and must number and label all parts, pages, figures, and tables in its Response. Respondent should prepare its Response simply and economically, providing a straightforward, concise description of the Respondent’s capability to satisfy the conditions and requirements of this competitive solicitation. (Fancy bindings, colored displays, and promotional material are not desired). Respondent’s emphasis should be on completeness and clarity of content.
4. **Alternate Brands or Equivalent Products.** Any manufacturer’s names, trade names, brand names, information and/or catalog numbers listed in the Competitive Solicitation are for information and not intended to limit competition. The Respondent may offer any brand for which Respondent is an authorized representative where such brand meets or exceeds the specifications for the item. Likewise, customary measurements appearing in the Competitive Solicitation are not intended to preclude Responses for commodities with equivalent metric measurements. All items provided by Respondent will be new items. The University reserves the right to approve or reject an item as an approved alternate brand or equivalent product.

**Small Business Minority Enterprise (SMBE).** It is the University’s desire (consistent with state and federal law), to optimize opportunities for business contracting with small, minority and disadvantaged business enterprises in the areas of commodities, construction, contractual services, and architectural and engineering services. Respondents are likewise encouraged to use the small, minority and disadvantaged business enterprises and to have a business diversity program in place. For more information on becoming a State of Florida Certified Minority Business (CMBE), to request certification or to locate CMBEs, please contact the Office of Supplier Diversity, Department of Management Services at (850) 487-0915.

### 2.2 Response- Required Tab Contents

Respondents are expected to organize responses according to the below tabs.

#### 2.2.1 Tab A: Essential Documents

Responses must include the following items in Tab A:

1. Completed **Competitive Solicitation Certification Form** (Affidavit) (Attachment A).
2. Completed **Requested Deviation or Exception Form** (Attachment B) if Respondent is requesting **deviations to or exceptions** from the requirements in the Competitive Solicitation, including language

in the Sample Agreement (Attachment C). Include a detailed justification for the deviation(s) or exception(s). For objections to any terms and conditions, provide proposed replacement language.

- a. The University reserves the right to accept or reject any requested changes or proposed replacement contract language. The University may also lower Respondent's evaluation rating based on the number and severity of requested deviations or exceptions sought. Although some deviations, exceptions, and replacement contract language may be accepted, the University intends that the Successful Respondent will execute the University's contract in substantially the same form as is written in the Sample Agreement (Attachment C). Respondents are warned against saving their objections to the various provisions until negotiations, as this may be cause for eliminating Respondent's Response from further consideration.
3. Proof of any required **licenses**.
4. Signed **Addenda Acknowledgement Form(s), if applicable**.
5. Signed Human Trafficking Affidavit (Attachment E).

### 2.2.2 Tab B: Executive Overview of Respondent

Responses must include the following items in Tab B:

1. An **overview and history of Respondent or Respondent's firm**. Include the following items:
  - a. Name, address, and legal entity structure.
  - b. Primary location of the office that will have direct responsibility for providing the goods and services.
  - c. A description of the standard services offered by Respondent and goods provided.
  - d. A listing of professional organizations Respondent is a member of.
2. Copies of Respondent's two most recent **financial and annual reports**, or a letter from Respondent's bank stating that Respondent is financially stable. If such information is publicly available, A URL may be provided instead of a copy.

### 2.2.3 Tab C: Service/Goods Description

Proposals must include the following items in Tab C:

1. Information regarding Respondent's **additional warranties** on the goods and services, including replacement of items, if applicable.
2. Information regarding **alternate brands or equivalent products** being offered by Respondent, if any.
  - a. Indicate the manufacturer's name and product number on the Response for such alternate brand or equivalent product and provide descriptive literature and/or complete specifications of the alternate brand or equivalent product.
  - b. Explain why the proposed equivalent will meet the specifications and why it should not be considered an exception.
  - c. If Respondent's Response lacks any written indication of intent to propose an alternate brand or equivalent product, Respondent's Response will be received and considered by the University to be for items that are in absolute compliance (including as to brand and measurement) with the specifications as written in the Competitive Solicitation.
3. If Respondent anticipates using **subcontractors**, the Respondent must identify the subcontractors and state the amount of the subcontracts. Respondent must also include a written, signed certification stating that the subcontractors are appropriately licensed and are registered with the State of Florida in accordance with Chapters 607 or 620, Florida Statutes, and such statement will include any subcontractors' corporate charter numbers.

## 2.2.4 Tab D: Financial Proposal

Responses must include the following items in Tab D:

1. The **proposed total**, not to exceed cost of work for the goods and services (“fee”). The fee must include all projected work including annual/quarterly maintenance, meetings, presentations, analysis, consultants, printing, travel and other assumed reimbursable expenses.
2. The **hourly rates** for additional work outside the scope of work, if requested by the University.
3. The proposed cost for the goods.

## 2.2.5 Tab E: References and Experience Overview

Responses must include the following items in Tab E:

1. A **description of the three (3) prior contracts** completed by the Respondent that most closely indicate the Respondent’s capability to satisfy the University’s requirements as stated in the Competitive Solicitation. Include overall purpose of contract. Please provide for each contract: the former client’s company name, the name of the client’s contract administrator, and the contract administrator’s phone number, and e-mail address.

Please note: All goods and services proposed must meet or exceed the specifications as outlined above.

2. At least **three references** to whom Respondent has provided the same or similar goods or services within the last 5 years. Each reference should include the Company Name, Contact Name and phone number, and e-mail address.
3. **Resumes** or **corporate profiles** clearly reflecting qualifications and experience of Respondent.
4. University may contact the provided references and contract administrators any time after the Response is opened.

## 2.2.6 Tab F: Trade Secret Certification

Responses should include the following items in Tab F, if applicable:

Provide the **Affidavit of Trade Secret Certification** (Attachment D), completed and signed by an authorized representative as to applicable trade secrets contained in the Respondent’s documents. Respondent must segregate and clearly mark all documents certified as a trade secret and include the documents in this tab of Respondent’s Response.

1. **Segregate and separately label the document(s)** claimed as trade secrets. Documents labeled as trade secrets that are produced electronically should be produced on a separate jump drive and clearly labeled “Trade Secret” on the jump drive as well in the title/name of the electronic folder or file. Documents produced in hard copy should be separated and each clearly labeled “Trade Secret.” Merely inserting the words “Confidential” and/or “Proprietary” to the front of or the footer of a document does not automatically entitle the document to be treated as a trade secret under Florida law and thus is insufficient to comply with this requirement.
2. **Provide the Affidavit of Trade Secret Certification** (form is Attachment D) signed by a high-level officer of the Respondent to The University’s Procurement Department, certifying the following for each separate claimed trade secret document:
  - a. Identify with specificity the document(s) for which trade secrets protection is claimed;
  - b. Provide a description of the document sufficient to determine the application of the trade secret exemption; and
  - c. Explain in detail the specific element(s) or provision(s) of Florida Statutes Section 688.002(4) or Section 812.081(c) that render the document at issue a trade secret

exempted from public records under applicable Florida law.

3. Respondent's failure to fully comply with the above and/or submit a sworn affidavit with its Response is an affirmation that none of Respondent's documents are trade secrets.

## 2.3 Submission Instructions

Please read these instructions carefully. Failure to comply with all instructions is grounds for rejection of Respondent's Response without further evaluation. Respondents must submit their Response by following the instructions below.

1. Respondent must submit the following:
  - a. One **(1) printed original of the Response** clearly marked as the original and containing an authorized representative's signature, title, and date of signature.
  - b. Three **(3) hard copies** of the Response.
  - c. One **(1) electronic copy** of the Response, preferably on a jump drive. Do not provide the Response via email.
2. The items listed in 1. above must be delivered to and received by the University prior to **the Proposal Due Date** and time at the address below in a sealed container or envelope:

**FLORIDA POLYTECHNIC UNIVERSITY**  
**Procurement Department**  
**c/o Wellness Center Mail Room**  
**4700 Research Way**  
**Lakeland, Florida 33805-8531**

**Outer label MUST also include:**

**ITN 25-016 Internet Access**

**Attn: Andrea Cashell**

3. Any information or required submittals that, due to size or binding cannot be incorporated into the proper tab, may be submitted separately but must be submitted at the same time as Respondent's Response is submitted. Instructions on where to find the separately submitted information should be provided in the relevant tab.

## 3.0 Process

### 3.1 Authorized University Representative

The Authorized University Representative for this competitive solicitation is:

ITN 25-016 Internet Access

Email: [bids@floridapoly.edu](mailto:bids@floridapoly.edu)

Phone: 863-874-8428

### 3.2 Respondent Communications and Inquiries

Questions regarding this Competitive Solicitation must be submitted via email only to the Authorized University Representative and only at the email address stated in 3.1. above. Respondent's written questions should identify the relevant Section(s), Subsection(s), Paragraph(s) and page number(s) of the Competitive Solicitation for each question.

The University will consider only those communications and/or inquiries submitted via email and received by the Authorized University Representative on or before the Deadline for Written Questions specified in the Schedule. Unless the Authorized University Representative specifically requests Respondent to provide additional communications or documents, University will not accept or consider any of Respondent's written or other communications and/or inquiries (except Responses) received between the Deadline for Written Questions and the posting of an award, if any, under this Competitive Solicitation.

To the extent the University determines, in its sole discretion, to respond to any communications, inquiries, or requests for clarification, the University's response (as applicable) will be made in an addendum to this competitive solicitation and posted on the Procurement Website.

Only those communications that are in writing from the Authorized University Representative will be considered as duly authorized expressions on behalf of the University.

### 3.3 Restricted Respondent Communications

From the date of issuance of this Competitive Solicitation until the University takes final action, the Respondent must not communicate with any University employees or Evaluation/Negotiation Committee members regarding this Competitive Solicitation or Respondent's Response except as provided herein or as expressly requested by the Authorized University Representative. Violation of this restriction may result in rejection of the Respondent's Response.

### 3.4 Addenda

The Procurement Department will post any Addenda to this Competitive Solicitation on the Procurement Website. The Respondent's authorized representative must sign and date the Addenda Acknowledgment Form(s), if any, and include the form(s) in the Respondent's Response. All Respondents, including known interested private parties, are solely responsible for checking the Procurement Website periodically to verify whether any such Addenda and forms were issued.

### 3.5 Opening of Responses

The Procurement Department will open and review all timely submitted Responses for the sole purpose of recording the names of the Respondents submitting Responses.

### 3.6 Responsive Determination

Each Response will be reviewed by the Procurement Department to determine whether it is responsive. A responsive response is one that:

- a. Follows the requirements of this Competitive Solicitation,
- b. Includes all required documentation and information,
- c. Was submitted in the format outlined in this Competitive Solicitation,
- d. Was received by the University on or before the Response Due Date and time, and
- e. Has the appropriate signatures, as required, on each document.

Respondent's failure to comply with these requirements may put Respondent's Response at risk of being rejected as "non-responsive".

### 3.7 University Rejection of Response

The University reserves the right and sole discretion to reject any Response at any time on grounds that include, but are not limited to:

1. Response is nonresponsive, incomplete, or irregular in any way; or
2. Response is not in University's best interest.

The University may waive informalities and minor irregularities in Responses.

### 3.8 Withdrawal of Response from Further Consideration

Respondent may withdraw its response in writing if done within seventy-two (72) hours of the competitive response/bid opening, if the response is clearly erroneous, and if the response is withdrawn prior to final award or the purchase order being issued, whichever comes sooner. In accordance with Florida law, the submitted Response will not be returned to the Respondent; however, the Response will be withdrawn from the remainder of the competitive solicitation process.

### 3.9 Protests

Any Respondent/interested person who is disputing the specifications or is adversely affected by a decision or intended decision concerning this competitive solicitation or contract award and who wants to protest such specifications, decision, or intended decision must file a protest in compliance the Florida Board of Governors' regulations.

Notices of actions, including an intent to award to a Respondent, will be posted on the Procurement Website for review by interested parties, and will remain posted for a period of at least seventy-two (72) hours. Failure to timely file a protest or failure to timely deliver the required bond or other security in accordance with the Board of Governors Regulations 18.002 and 18.003 shall constitute a waiver of protest proceedings.

## 4.0 Selection Process

### 4.1 Evaluation Criteria

Responses will be evaluated based on the following criteria and points:

Criteria	Tab	Maximum Points Available
References and Past Experience	E	10
General Requirements	C	25
Technical Requirements	C	20
Functional Requirements	C	20
Optional Services		10
Financial Proposal	D	15
<b>Total Points Available:</b>		100

### 4.2 Evaluation Process and Evaluation Committee

Responses fulfilling the basic requirements are referred to an Evaluation Committee for review and further consideration. The Responses will be independently evaluated by the Evaluation Committee. The Evaluation Committee will meet to openly and publicly discuss Respondents' Responses, presentations, and additional written information as requested. If determined to be necessary, the Evaluation Committee will conduct additional interviews. Internal staff analysis and presentations, outside consultants, feedback from references and contract administrators of prior contracts, and any other resources may be utilized by the University to assist in evaluating the Responses.

The Evaluation Committee will meet to collectively discuss their analyses of the Responses to formulate a recommendation to the appropriate University Official. The Evaluation Committee may recommend that one or more Respondents be invited to participate in negotiations with the Negotiation Team – deemed "Shortlisted Respondents", or to move forward with an award to a Respondent.

The University reserves the right to award a Contract without negotiations with the Respondent; therefore, Respondent's Response should contain the Respondent's best terms from a cost or price and technical standpoint.

The Procurement Department will review the Responses to determine if any preferences should be applied. The University will provide preferences to eligible Responses in accordance with Board of Governors regulation 18.001, and Sections 287.084, 287.087, and 287.092, Florida Statutes, as applicable.

### 4.3 Negotiation Team

If the University determines that negotiations are warranted, the Negotiation Team will evaluate each Shortlisted Respondent's Response to this Competitive Solicitation. The Negotiation Team may enter into negotiations with multiple Shortlisted Respondents in order to achieve the contract that best supports the University's mission and objectives.

Prior to the Respondent's first meeting with the University's Negotiation Team, Respondent must submit written authorization attesting that at least one of Respondent's representatives is Respondent's lead negotiator and is authorized to bind Respondent to the terms and conditions agreed to during negotiations. The University reserves the right to immediately terminate negotiations with any Respondent

whose lead negotiator is not empowered to, or who will not, make decisions during a negotiation session. Additionally, the University may elect not to solicit a Best and Final Offer ("BAFO") from any Respondent whose representative(s) have been unable or unwilling to commit to decisions reached during the negotiation process.

Negotiations with Shortlisted Respondents may involve presentations, site visits, interviews, additional written information, internal staff analysis and presentations, feedback from outside consultants, discussions with the Shortlisted Respondents, and/or any other methods of gathering information that are deemed helpful.

Time is of the essence and therefore the University retains the right to cease negotiations with Respondents who do not respond to negotiation issues on a timely basis. The University may reject offers that are not reasonably supportable.

After negotiations have been completed to the satisfaction of the Negotiation Committee, selected Shortlisted Respondents will be given the opportunity to submit BAFOs.

#### 4.4 Contract Award

The Negotiation Team will submit its recommendations to the Director of Procurement for review and approval, and if approved, the Director will forward the recommendations to the appropriate University Official, or their designee, for a final decision regarding the award of the Competitive Solicitation.

The University Official considers the recommendations and makes a final decision regarding the award. If due to the value or nature of the contract being awarded approvals from the University's Board of Trustees or its designees are required, such approval must be obtained before the contract can be awarded.

The University reserves the right to select, and subsequently recommend for award, the "Final Response" (the Successful Respondent's Response or Best and Final Offer, whichever is later) that is determined to be in the best interest of the University. The University may reject all Responses if such action is in the University's best interest. The University is not obligated to make an award under this Competitive Solicitation and may make multiple awards if it, in its sole discretion, deems it is in the University's best interest to do so.

All provisions of this Competitive Solicitation and the Successful Respondent's Final Response provide the specifications for, and obligations of both parties to be executed by the duly authorized representative(s). The following constitute the Contract:

- a. The Competitive Solicitation document, along with any addenda issued pursuant thereto,
- b. The Respondent's Final Response, and
- c. Terms in the University Sample Agreement to include all clarifications and negotiated modifications to the Competitive Solicitation, Sample Agreement, addenda, and Respondent's Final Response.



## 5.0 Terms and Conditions -Competitive Solicitation Process

The following terms and conditions apply to all Respondents. By participating in this competitive solicitation process, Respondent agrees to be bound by the following terms and conditions:

- 1. Actions of Respondent.** The University is not bound by the actions of any Respondent with respect to third parties. Respondent will not provide any commodities or services or take any action, even if such is as a result of any discussions with any the University employee, prior to a contract being signed by both parties. If Respondent provides services or commodities or takes any action prior to a contract being signed by both parties, the Respondent does so at Respondent's sole risk and expense.
- 2. Collusion Prohibited.** Respondent's collusion with other Respondents, other Respondents' employees, or any employee of the University is prohibited and may result in rescission or cancellation of solicitation (or contract) without liability to the University.
- 3. Conflict of Interest.** The award of this Competitive Solicitation is subject to the provisions of Chapter 112, Florida Statutes, and any other laws, regulations and/or policies concerning conflicts of interest in dealing with entities of the State of Florida (collectively, "Conflicts of Interest Rules").
  - a. Solely by way of example, Respondent must disclose in its Response the name of any officer, director, or agent of the Respondent who is also an employee or public officer of the University. Further, Respondent must disclose in its Response the name of any University employee or public officer (or his or her spouse or child) who owns, directly or indirectly, an interest of five (5%) or more of the Respondent's company or any of its affiliates or branches.
  - b. In addition, in accordance with Section 112.3185, Florida Statutes, by submitting a Response, the Respondent certifies that no individual employed by the Respondent or subcontracted by the Respondent has an immediate relationship to any University employee or public officer who was or is directly or indirectly involved in any way in the drafting, evaluating, or awarding of this Competitive Solicitation.
  - c. Failure to disclose the required information or violation of the Conflicts of Interest Rules is grounds for the University's rejection of Respondent's Response, cancellation of an intent to award to Respondent, and/or cancellation of any contract with the Respondent.
- 4. Covenant against Commissions, or Brokerage and Contingent Fees.** By submitting a Response, the Respondent warrants that the Respondent has not employed or retained any person or entity, other than a bona fide employee working solely for the Respondent, to solicit or secure any award, agreement, or any other advantage related to this Competitive Solicitation.
- 5. Disposition of Responses.** All Responses become the property of the University, and the University has the right to use all ideas, and/or adaptations of those ideas, contained in any response received in response to this Competitive Solicitation. The University's selection or rejection of a Response does not affect this provision.
- 6. Public Records Laws; Trade Secret Certification.** The University is subject to Chapter 119 of Florida Statutes, commonly known as the Florida Public Records Law. This Competitive Solicitation is a public record. Any documents Respondent submits to The University in response to this Competitive Solicitation become public records, which will similarly be subject to the Florida Public Records Law. As required by law, The University will respond to public records requests without providing notice to Respondents whose documents have been requested.

- a. Should Respondent seek to assert trade secret protection for any document the Respondent submits in response to this competitive solicitation, under sections 119.0715, 688.002(4), 812.081(1)(c), 815.04(3), and/or 815.045, Florida Statutes, Respondent must comply with the instructions for **Tab F** for each document that trade secret protection is claimed.
- b. If a Respondent properly complies and submits a sworn affidavit with its Solicitation Response and the University later receives a public record request for a document or information that is marked and certified with an affidavit to be a trade secret, the University will provide the requestor a copy of the Respondent's sworn affidavit. Any challenge to the affidavit and the application of the trade secret exemption will be rebutted, if at all, only by the Respondent; the University's only obligation will be to provide Respondent notice that such a challenge has been received. The University's notice to Respondent will serve as formal notice to the Respondent that the Respondent has thirty (30) calendar days following receipt of such notice to file an action with a court of competent jurisdiction seeking an order barring public disclosure of the document(s). If Respondent files such an action within thirty (30) calendar days after receipt of the notice of a challenge to its trade secret certification and informs the University of such, the University will not release the documents at issue pending the outcome of the legal action. Respondent's failure to file an action within the thirty (30) calendar day period constitutes a waiver of any claim of confidentiality, and the University will release the requested documents.
- c. Any parts of a Response, and any other material(s) submitted to the University with the Response, that are copyrighted or expressly marked as "confidential," "proprietary," "trade secret," or similar marking, (proprietary designation) will be exempt from the public records disclosure requirements of chapter 119, Florida Statutes, only to the extent expressly authorized by Florida law. Respondent's mere use of a propriety designation, while necessary, does not itself ensure that such materials will be exempt from disclosure. In the absence of a specific Florida statute exempting the material from the public records law, the University is legally obligated to produce all public records produced or received in the course of conducting university business, irrespective of any proprietary designation by the Respondent. The University, or potentially a court, will make the ultimate determination of whether a Respondent's claim of a proprietary designation will support an exemption from disclosure.
- d. If the instructions listed above conflict with Florida law, Florida law controls.

**7. Public Entity Crimes.** In accordance with Section 287.133(2)(a), Florida Statutes, a person or entity who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Response; may not perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, including the University; and may not transact business with the University in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date being placed on the convicted vendor list. By submitting a Response, Respondent is certifying that Respondent is not on the convicted vendor list maintained by the Florida Department of Management Services, and Respondent is also certifying that any subcontractor listed in Respondent's solicitation response is not on the convicted vendor list.

**8. Prohibitions.** Unless expressly and specifically authorized in writing by the University in advance, Respondent is prohibited from engaging in any of the following:

- a. Incurring any debt or obligation on behalf of the University;
- b. Entering into any contract, arrangement, or transaction that binds the University to any extent or creates any obligation on the University; and/or
- c. Utilizing the University's name, credit, reputation, good-will, resources, and/or assets for any purpose without the prior and explicit written approval of the University.

**9. Respondent's Costs.** The University is not liable for any costs incurred by Respondents in responding to this Competitive Solicitation including, without limitation, including costs for any presentations requested by the University.

## 6.0 Terms and Conditions- Special

# **ATTACHMENTS, APPENDICES, AND EXHIBITS**

# Attachment A- Competitive Solicitation Certification Form (Affidavit)

## Florida Polytechnic University

### ITN 25-016 INTERNET ACCESS and WAN

Response Due Date: October 25, 2024; 2:00 PM (ET)

**1. Respondent Information:**

\_\_\_\_\_  
Firm or Individual's Name

\_\_\_\_\_  
Authorized Individual's Name

\_\_\_\_\_  
Federal Employer Identification Number

\_\_\_\_\_  
Authorized Individual's Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**2. Government Classifications.** Check all that apply to Respondent:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> African American  | <input type="checkbox"/> American Woman         | <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    |

**3. Required Disclosure- Employment.** List below the names of Respondent or Respondent's employees having an employment relationship with the University and describe the nature of the relationship, If none, indicate such by writing "Not Applicable" or "N/A" below. (Attach an additional page if necessary.)

Name: Relationship:
Name: Relationship:

**4. Required Disclosure- Ownership.** List below the names of any University officer or employee owning an interest of 5% or more of Respondent's firm or its affiliates or branches and describe the nature of the ownership interest. If none, indicate such by writing "Not Applicable" or "N/A" below. (Attach an additional page if necessary.)

Name: Ownership Interest:
------------------------------

Name: Ownership Interest:

**5. Required Disclosure- Bankruptcy/Insolvency/Delinquency Judgement.** If Respondent has declared bankruptcy, otherwise been declared insolvent, has had a delinquency judgement issued against it in any court of competent jurisdiction, been placed in receivership, or any litigation that could significantly impact Respondent’s financial operating results or financial position, provide the information below. If none, indicate such by writing “Not Applicable” or “N/A” below. (Attach additional pages, if necessary.)

Date:	Court jurisdiction:
Trustee/ Receiver Name:	Phone Number:
Amount of Liabilities:	
Amount of Assets:	
Current Status:	

**6. Required Disclosure- Damages/Penalties/Liens/Judgments/Defaults/Cancellations/Termination.** If Respondent has had any agreements/contracts within the last three years where liquidated damages, penalties, liens, judgments, defaults, cancellations of contract or termination of contract were imposed, sought to be imposed, threatened, or filed against the Respondent, provide a description below. If none, indicate such by writing “Not Applicable” or “N/A” below. (Attach additional pages, if necessary.)

**SIGNATURE REQUIRED** – I hereby swear under the penalty for false swearing:

1. That I am the Respondent (if the Respondent is an individual), a partner (if the Respondent is a partnership), or an Officer or employee of the Respondent with authority to sign on its behalf (if the Respondent is a corporation).
2. That the information provided in this document is accurate and complete.
3. That the Respondent is legally entitled to enter into contracts with the Florida Polytechnic University Board of Trustees.
4. That Respondent is aware of and has complied with the requirements of the Conflicts of Interests Rules, including any requirement to file appropriate disclosures with the State of Florida Commission of Ethics prior to submission of this Response.
5. That Respondent’s Response remains valid for six (6) months after the due date.

\_\_\_\_\_  
Respondent’s Name

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed

Title: \_\_\_\_\_  
Printed

Date: \_\_\_\_\_

**NO RESPONSE** – If not responding to this solicitation, please advise reason and return via email to bids@floridapoly.edu with reason for NO RESPONSE.

### Attachment B - Requested Deviations or Exceptions Form

Respondent must complete this form and include it in Tab A of their Response to request deviations or exceptions to the Competitive Solicitation Requirements, including language in the Sample Agreement (Attachment C). (Attach additional pages, if necessary.)

Section Number	Proposed Change or Replacement Language	Justification



Attachment C- Sample Agreement  
Services and Goods

This Agreement (“Agreement”) is made and entered into on \_\_\_\_\_ (the “Effective Date”), by and between The Florida Polytechnic University Board of Trustees (“the University”) and \_\_\_\_\_, a (state of incorporation and type of entity), whose address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, who is authorized to do business in the State of Florida (the “Contractor”).

**RECITALS**

WHEREAS, the University requested Responses for Competitive Solicitation No. \_\_\_\_\_ (“Solicitation”) to provide the following goods and/or services: \_\_\_\_\_ (collectively referred to as the “Services”);

WHEREAS, the Contractor submitted a response for the Solicitation provides the Services (“Response”), which was accepted by the University.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and intending to be legally bound hereby, the parties hereto agree as follows:

- 1) **Term.** This Agreement commences on the Effective Date and will continue for an initial term of \_\_\_\_\_ (\_\_) year(s) (the “Initial Term”) and may be renewed in writing by the parties for \_\_\_\_\_ (\_\_) additional \_\_\_\_\_ (\_\_) year term(s) (each such additional \_\_ year term is referred to as the “Renewal Term”).
- 2) **Contract.** The Contractor will provide to the University the Services pursuant to the terms and conditions described herein and in the following: the Solicitation (including Addenda), attached as Exhibit I and incorporated by reference and the Contractor’s Final Response, attached as Exhibit II and incorporated by reference. (The Contractor is referred to as “Respondent” and “Successful Respondent” in the Exhibits). In the event of conflict between or among terms and conditions contained in the foregoing documents with regards to the Services, such documents govern in the following order of precedence: first, this Agreement; second, Exhibit I (the Solicitation, including Addenda); and third, Exhibit II (the Contractor’s Final Response).
- 3) **Clarifications/negotiated points** (if any) are:
  - a) \_\_\_\_\_
- 4) **Payment.** The Contractor will provide the Services to the University pursuant to the pricing set forth in Exhibit II (unless revised herein). The Contractor will submit invoices for fees or other compensation for services or expenses in detail sufficient for a proper pre-audit and post-audit.
  - a) Upon receipt, the University has five (5) business days to inspect and approve the goods or services.

- b) The University will make payment in accordance with the University's Regulation, which states the Contractor's rights as a vendor and the University's responsibilities concerning interest penalties and time limits for payment of invoices.
- c) If a payment is not issued within thirty (30) days of receipt of a proper invoice and receipt and inspection and approval of the goods and services, the University, upon a valid request, will pay to the Contractor, in addition to the amount of the invoice, an interest penalty at the rate established pursuant to section 55.03(1), Florida Statutes, provided the interest penalty is in excess of one dollar (\$1.00). The interest will be calculated on the unpaid balance from the expiration of the 30-day period until such time as the payment is issued to the Contractor.
- d) A Vendor Ombudsman, whose duties include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment from the University, may be contacted at 863-874-8448.

**5) Cooperation on Audits and Investigations.** The Contractor must cooperate with the University and provide specific records and/or access to the Contractor's records related to this Agreement for purposes of conducting an audit or investigation. The University will provide Contractor with reasonable notice of the need for such records or access.

**6) Travel Expenses.** Contractor will not charge the University for any travel expenses, meals, and lodging unless otherwise specifically provided for in this Agreement, and upon the University's prior written approval of the expenses. Under such circumstances, Contractor is authorized to incur the agreed to travel expenses which will be payable by the University, but only to the extent permitted in section 112.061, Florida Statutes. Contractor is responsible for any expenses in excess of these prescribed amounts.

**7) Taxes.** The University is a tax immune sovereign and exempt from the payment of sales, use, or excise taxes. The Contractor must pay all personal property taxes on leased equipment and all taxes based upon net income.

**8) Relationship of the Parties.** The Contractor is an independent contractor, and neither the Contractor nor the Contractor's employees, agents, or other representatives are the University's employees or agents. The Contractor may not use the University's name, trademarks, logos, or marks without the University's prior written approval. Each party assumes any and all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of that party and its officers, employees, and agents. The Contractor also assumes such risk with respect to the willful or negligent acts or omissions of the Contractor's subcontractors or persons otherwise acting or engaged to act at the instance of the Contractor in furtherance of the Contractor fulfilling the Contractor's obligations under this Agreement.

**9) Background Checks.** Prior to any of Contractor's employees or agents entering the University's campus or premises to perform work pursuant to this Agreement, Contractor must have conducted, and the employee or agent must have passed, a background check. In addition, if Contractor's employee or agent is listed on the Florida or National Sex Offenders Registry, that employee or agent may not enter the University's campus or premises in furtherance of this Agreement.

**10) Parking.** The Contractor must ensure that all of Contractor's and Contractor's employees', agents', and subcontractors' vehicles parked on the University premises have proper parking permits. All vehicles must be registered with and have parking permits purchased from the University's Parking and Transportation Services Department. Contractor and Contractor's employees, agents and subcontractors must observe all parking rules. The failure to purchase parking permits and otherwise comply with all the University's parking rules could result in the ticketing and/or the towing of Contractor's or Contractor's employees', agents', and subcontractors' vehicles.

**11) Contractor's Employment of Unauthorized Aliens.** Employment of unauthorized aliens is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, the University may terminate this Agreement immediately upon notice to Contractor for Contractor's violation of this provision.

**12) E-Verify.** All terms defined in section 448.095, Florida Statutes are adopted and incorporated into this provision. Pursuant to section 448.095, Florida Statutes, Contractor certifies (Exhibit III) that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Agreement. If Contractor enters into a contract with a subcontractor to perform work or provide services pursuant to this Agreement, Contractor must also require the subcontractor to comply with the requirements of section 448.905, Florida Statutes. The subcontractor must provide to the Contractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with or to, any unauthorized alien. Contractor must maintain a copy of such affidavit for the duration of this Agreement. The University may terminate this Agreement immediately upon notice to Contractor for Contractor's violation of this provision.

**13) Workers' Compensation.** Contractor must have and maintain during the life of this Agreement, Workers' Compensation Insurance for all its employees connected with the work related to this Agreement. In the event any work related to this Agreement is sublet or subcontracted, the Contractor must require the subcontractor to provide Workers' Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Contractor. Such insurance must comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under Workers' Compensation, the Contractor must provide, and cause each subcontractor to provide, adequate insurance for the protection of such employees.

**14) Equal Opportunity.** The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, Veteran status, marital status, age or disability.

- a) The Contractor will comply with the provisions of Executive Order 11246, September 24, 1965, as amended by Executive Order 11375, and the rules, regulations and relevant orders of the Secretary of Labor that are applicable to each order placed against the Contract regardless of value.

- i) If the Contractor anticipates receiving \$10,000 in orders during the first 12 months of this Agreement, Contractor must complete the Certificate and Agreement of Non-Segregated Facilities (Exhibit IV).
- b) The Contractor will also comply with the Americans with Disabilities Act (ADA) of 1990, as revised.
- c) If the Contractor anticipates receiving \$50,000 in orders during the first 12 months of this Agreement, and employs more than 50 people, the Contractor will complete and file prior to March 1 of each year a standard form 100 (EEO-1) and will maintain a written program for affirmative action compliance that is available for review upon the University's request.

**15) Subcontractors.** The Contractor is fully responsible for all work performed under this Agreement. The Contractor may, with the prior written consent of the University, enter into written subcontract(s) for performance of certain of its functions under this Agreement. The Contractor's subcontracts must not be implemented or effective until and unless approved in writing by the University. Contractor will fully notify any subcontractors of Contractor's responsibilities pursuant to this Agreement by providing language in the Contractor's subcontracts with subcontractors for work related to this Agreement. Contractor is solely responsible for all payments to its subcontractors. Contractor will require its subcontractors to provide proof of the required insurance coverage as well as proof of appropriate licenses before allowing the subcontractor to perform work related to this Agreement.

**16) Small Business Minority Enterprise (SMBE) Reporting.** In each invoice submitted to the University, the Contractor will report the following information for each SMBE used in the performance of this Agreement: the Name, Address, Type of Certification and Dollar Amount paid for work related to this Agreement.

**17) Covenant Against Commissions or Brokerage and Contingent Fees.** Contractor warrants that the Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of Contractor's breach or violation of this warranty, the University has the right to annul this Agreement, without liability, and to deduct from any amounts otherwise payable to Contractor under this Agreement the full amount of such fee, commission, percentage, gift, or other consideration, and to pursue any other remedy available to the University under this Agreement, at law or in equity.

**18) Insurance.** Contractor will maintain, at its own expense, amounts of insurance as required in the Solicitation. If no insurance is mandated in the Solicitation, Contractor must at a minimum maintain insurance that covers the Contractor's exposure in performing this Agreement. The University is self-insured and is not required to obtain additional insurance for purposes of this Agreement.

**19) Licensing Requirements.** To the extent applicable, Contractor must have and maintain all appropriate licenses necessary to perform the Services related to this Agreement. Contractor must provide proof of such licenses to the University upon request.

**20) Work for Hire.** Any work specifically created for the University under this Agreement by the Contractor is 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") are and remain the property of the University, and, unless otherwise specifically set forth herein, are 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 Contractor who created, produced, developed or fabricated the Materials hereunder assigns all of his/her right, title and interest in the Materials to the University.

- a) The University owns all right, title and interest in the Materials. Contractor agrees upon request to execute any documents necessary to perfect the transfer of such title to the University.
- b) The Materials must be to the University's satisfaction and are subject to the University's approval. Contractor bears all risk of loss or damage to the Materials until the University has accepted delivery of the Materials.
- c) The University is entitled to return, at Contractor's expense, any Materials which the University deems to be unsatisfactory.
- d) On or before completion of the Contractor's services hereunder, the Contractor 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.
- e) Contractor hereby represents and warrants that 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 that 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.

**21) Trademark or Copyright Infringement.** Contractor will, at its expense, defend any suit brought against the University and will indemnify the University against an award of damages and costs made against the University by settlement or final judgment of a court that is based on a claim that the use of the Contractor's product infringes a trademark or copyright of a third party; provided that the University notifies Contractor in writing of the suit or any claim of infringement within thirty (30) days after receiving notice thereof, and further provided that Contractor is permitted to control the defense in any litigation or settlement of the suit. The University will provide reasonable cooperation in the defense of the suit at Contractor's expense. Such defense and indemnity survives termination or expiration of this Agreement.

**22) Confidentiality of Information.**

- a) The Contractor acknowledges and agrees that the following items are and remain confidential, proprietary, and the sole property of the University:
  - i) all documents, studies, materials and information furnished to the Contractor by the University or the University's affiliates in connection with this Agreement, and
  - ii) all reports, studies, plans, deliverables, strategies, materials and other documents and information developed or prepared for the University in connection with this Agreement or which reflect any of

the documents, studies, materials or information furnished to the Contractor by the University (the materials described in this provision are collectively referred to as the "Information")

- b) The Contractor agrees that it will not use the Information nor share the Information with its employees, except as necessary to the Contractor's performance under this Agreement, and the Contractor will at all times comply with all state and federal laws governing the use and/or safe-keeping of confidential and/or personally identifiable information. The Contractor must not disclose Information to third parties unless it obtains the University's written consent to such disclosure.
- c) In the event the Contractor is required by subpoena or other judicial or administrative process or by law to disclose such records, the Contractor will:
  - i) provide the University with prompt notice thereof;
  - ii) consult with the University on the advisability of taking steps to resist or narrow such disclosure;
  - iii) furnish only that portion of the information that is responsive to the request;
  - iv) comply with the requirements of all state and federal privacy laws applicable to the Information, which may include but is not be limited, to Florida Public Records laws, FERPA, the Gramm-Leach Bliley Act, the Federal Trade Commission's Red Flags Rule (which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003); and
  - v) reasonably cooperate with the University in any attempt that the University may make to obtain an order or other reliable assurance that confidential treatment will be accorded the records.
- d) Upon termination of this Agreement or upon request by the University, the Contractor will promptly return the Information to the University. Notwithstanding the foregoing, if the University will share or provide access to protected health information or "PHI" with the Contractor for the Contractor to perform this Agreement, the University and the Contractor will enter into a separate business associate agreement which will govern the confidentiality and non-use obligations of the Agreement regarding the PHI (in lieu of this provision). This provision survives the termination or expiration of this Agreement.

**23) Compliance with Public Records Law.** The University is subject to applicable public records laws as provided by provisions of Florida Statutes Chapter 119, and the University will respond to such public records request without any duty to give the Contractor prior notice. The University may unilaterally terminate this Agreement for Contractor's refusal to allow public access to all public records that were made or received in conjunction with this Agreement. This provision survives termination or expiration of this Agreement.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Florida Polytechnic University**

**Attention: General Counsel**

**4700 Research Way**

**Lakeland, FL 33805**

**[ogc@floridapoly.edu](mailto:ogc@floridapoly.edu) (863) 874-8412**

- a) To the extent that Contractor meets the definition of “contractor” under section 119.0701, Florida Statutes, in addition to other requirements provided by law, Contractor must comply with public records laws, including the following provisions of section 119.0701, requiring Contractor to:
  - i) Keep and maintain public records required by University to perform the Service.
  - ii) Upon request from the University’s custodian of public records, provide the University with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law.
  - iii) Ensure that confidential information or records that are exempt from public records disclosure are not disclosed except as authorized by law for the duration of this Agreement, any renewals, and following completion of this Agreement if Contractor does not transfer the records to University.
  - iv) Upon completion of this Agreement, transfer, at no cost, to the University all public records in possession of Contractor or keep and maintain public records required by University to perform the Service.
- b) If Contractor transfers all public records to the University upon completion or termination of this Agreement, Contractor must destroy any duplicate confidential information or records that are exempt from public records disclosure.
- c) If Contractor keeps and maintains public records upon completion or termination of this Agreement, Contractor must meet all applicable requirements for retaining public records.
- d) All records stored electronically must be provided to the University, upon request from the University’s custodian of public records, in a format that is compatible with the information technology systems of the University.
- e) Third parties requesting to inspect or copy public records relating to this Agreement must be made directly to the University. If the University does not possess the requested records, the University will notify the Contractor of the request, and the Contractor must provide the records to the University or allow the records to be inspected or copied within a reasonable time.
- f) The University may inspect the:
  - i) Financial records, papers, and documents of the Contractor that are directly related to the performance of this Agreement or the expenditure of state funds.
  - ii) The Contractor’s programmatic records, papers, and documents which the University determines are necessary to monitor the performance of this Agreement or to ensure that the terms of this Agreement are being met.
  - iii) The Contractor must provide such records, papers, and documents requested by the University within 10 business days after the request is made.
  - iv) The right of access in this provision is not limited to the required retention period but lasts as long as the records are retained.
- g) The terms of this section 23 Compliance with Public Record Laws are material terms of this Agreement, and failure to comply may result in termination of this Agreement and/or civil penalties.

## **24) Termination.**

- a) **Termination for Cause.** Either party may terminate this Agreement for cause by giving the other party thirty (30) calendar-days written notice and an opportunity to cure by setting forth with specificity the

basis for the termination of this Agreement for cause. For purposes of this Agreement, “cause” means the failure by either party to: (i) provide the Services within the time specified in this Agreement; or (ii) adhere to any terms of this Agreement.

- b) **Termination at Will.** This Agreement may be terminated by University by providing written notice to Contractor of such intent to terminate at least 10 days prior to the effective date of such termination.
- c) If this Agreement is terminated, University is liable only for payment of Services received or rendered prior to the date of termination and accepted by University.

**25) Convicted Vendor List.** The Contractor represents and warrants that it is not on the Convicted Vendor List (see Fla. Stat. § 287.133(2)(a)).

**26) Annual Appropriations.** The State of Florida and the University’s performance and obligation to pay under this Agreement is subject to and contingent upon sufficient appropriations by the Florida Legislature and other entities’ allowance of the University to use such funds. In the event the entities controlling such funding fail to appropriate funds or to allow the University to use such funds, and the University has determined, in the University’s sole discretion, that there are insufficient funds available to cover the University’s obligation under this Agreement, the University has the right to terminate this Agreement without damage, penalty, cost or further obligation. The University will give notice to the Contractor of the non-availability of funds when the University has knowledge thereof. Upon receipt of such notice by the Contractor, the Contractor is entitled to payment only for those services performed and accepted by the University prior to the date such notice is received.

**27) Waiver of Rights and Breaches.** No right conferred on the University by this Agreement is deemed waived and no breach of this Agreement excused unless such waiver of right or excuse of breach is in writing and signed by the University. The University’s waiver of a right or excuse of breach does not constitute a waiver or excuse of any other right or breach.

**28) Federal, State, Local Laws, and Regulations.** The Contractor and any subcontractors must comply with all applicable laws, ordinances, and regulations. Contractor agrees to protect and indemnify the University, and its officers and agents against any claims or liability arising from, or based on, any violations of such by Contractor or its subcontractors.

**29) Force Majeure.** In the event compliance with any obligation under this Agreement is impractical or impossible due to any Event of Force Majeure, then the time for performance of such obligation will be extended for a period equivalent to the duration of the Event of Force Majeure. The provisions of this section do not excuse either party’s inability to perform its obligations hereunder because of inadequate finances. “Event of Force Majeure” means any strike, lockout, labor dispute, embargo, flood, earthquake, storm, dust storm, lightning, fire, epidemic, act of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, restraint by governmental order or any other occurrence beyond the reasonable control of the party in question.

**30) Lobbying.** Contractor is prohibited from using funds provided under this Agreement 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.



**31) Assignment/Modification of Agreement.** This Agreement may not be assigned or modified by either party except as agreed to in writing and signed by both parties. This Agreement is binding upon the parties' successors and assigns.

**32) Indemnification.** The Contractor is responsible for its performance under this Agreement. The Contractor will indemnify and hold harmless, assume liability for and defend, the State of Florida, the Florida Board of Governors, the University and their officers, employees, and agents, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, which may arise in any manner or are alleged to have arisen, from the acts, omissions or wrongful conduct of Contractor or Contractor's officers, employees, agents, guests, patrons, licenses, invitees or subcontractors in connection with or related to their operations, activities, and/or occupancy or use of the University premises in performance of this Agreement. This provision survives termination or expiration of this Agreement. The Contractor's obligations under this provision do not extend to any liability caused by the sole negligence of the University or its officers, agents, or employees.

**33) Sovereign Immunity.** Nothing in this Agreement is to be construed as an indemnification of the Contractor by the University or as a waiver of sovereign immunity beyond that provided in section 768.28, Florida Statutes.

**34) Governing Law; Venue.** This Agreement is governed by the laws of the State of Florida and will be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Any disputes related to this Agreement will be governed by Florida law, and this Agreement is deemed to have been executed and entered into in the State of Florida. Exclusive venue of any actions arising out of this Agreement will be in the courts in Polk County, Florida.

**35) Notice.** Any notices required under this Agreement must be in writing, signed by the party giving such notice, and served on the other party:

- a) Via hand delivery; or
- b) Via U.S. Mail, postage prepaid, registered or certified, return receipt requested; or
- c) Via expedited mail or package service, provided a receipt showing the delivery has been retained; or
- d) Via email

**To University:**

The Florida Polytechnic University Board of Trustees

4700 Research Way

Lakeland, Florida 33805

Attn: University Procurement

Email: [procurement@floridapoly.edu](mailto:procurement@floridapoly.edu)

**To Contractor:**

Name:

Address:

Attn:

Email:

With a copy to:

Office of the General Counsel

ogc@floridapoly.edu

With a copy to:

**36) Use of Agreement by Other Governmental Agencies.** At the option of the Contractor, the use of this Agreement may be extended to other governmental entities, including the State of Florida, its agencies, political subdivisions, counties, and cities, and any university in the State University System of Florida. Each such entity using this Agreement does so independently of the University and is solely responsible for its duties under its own agreement.

**37) F.O.B. for Deliveries.** For shipping and delivery of goods, shipping charges are included in the price of the goods and the shipped goods become the legal property and responsibility of the University only after the goods have been delivered and the University has inspected and accepted the goods. Contractor is responsible for the goods until such time.

**The parties have affixed their signatures to this Agreement:**

For University:

For Contractor:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to form and legality:

\_\_\_\_\_  
University Attorney

E-Verify Certification

Contractor hereby certifies compliance with the following:

Pursuant to section 448.095, Florida Statutes, Contractor must utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by Contractor while performing work or providing services for Florida Polytechnic University. Contractor shall also include in any related subcontracts a requirement that subcontractors performing work or providing services for Florida Polytechnic University on its behalf utilize the E-Verify system to verify the employment eligibility of all new employees hired by subcontractor.

\_\_\_\_\_  
Contractor’s Name

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed

Title: \_\_\_\_\_  
Printed

Date: \_\_\_\_\_

Certificate and Agreement of Non-Segregated Facilities

We, \_\_\_\_\_ certify to the Florida Polytechnic University that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services, under our control, where segregated facilities are maintained. We understand and agree that a breach of this certification is a violation of the Equal Opportunity clause required by Executive order 11246 of 24 September 1965.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash room, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom or otherwise.

We, further, agree that (except where we have obtained identical certifications from proposed subcontractors for specific time periods) we will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that we will retain such certification in our files; and that we will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted certifications for specific time periods):

NOTE TO PROSPECTIVE SUBCONTRACTORS OR REQUIREMENTS FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES. A Certificate of Non-segregated Facilities, as required by the 9 May 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, 19 May 1967), must be submitted prior to the award of a sub-contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each sub-contract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

**NOTE: Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.**

\_\_\_\_\_  
Contractor's Name

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed

Title: \_\_\_\_\_  
Printed

Date: \_\_\_\_\_

## CERTIFICATE OF NON-SEGREGATED FACILITIES

### SUBPART - RESPONDENT'S AGREEMENTS

During Contractor's performance of the Agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action includes, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other Contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Contractor commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of the Agreement or with any of such rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoiced as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provision of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or contractor. The Contractor will take such action with respect to any subcontract or purchase orders the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or contractor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

SEC. 402 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era:

1. The Contractor agrees to comply with the affirmative action clause and regulation published by the US Department of Labor implementing Section 402 of the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended, and Executive Order 11701, which are incorporated in this certificate by reference.

\_\_\_\_\_  
Contractor's Name

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
Printed

Title: \_\_\_\_\_  
Printed

Date: \_\_\_\_\_

SAMPLE

### Trade Secret Affidavit

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true:

1. I am over the age of eighteen and am a resident of the State of \_\_\_\_\_. I have personal knowledge of the facts herein, and, if called as a witness, could testify competently thereto.
2. I am the \_\_\_\_\_ (position) of \_\_\_\_\_ (name of corporate entity), a \_\_\_\_\_ (state) \_\_\_\_\_ (type of corporate entity), whose principal address is \_\_\_\_\_.
3. [I consider/My company considers] the information contained in the document(s) entitled \_\_\_\_\_ (*Identify with specificity the documents for which trade secrets protection is claimed*) and inserted in Tab F of the Competitive Solicitation ("Tab F") a trade secret under applicable law for the following reasons: (*Provide a description of the document sufficient to determine the application of the trade secret exemption and explain in detail the specific element(s) or provision(s) of Florida Statutes Section 688.002(4) or Section 812.081(c) that render the document at issue a trade secret exempted from public records under applicable Florida law*).
4. [I have/My company has] taken measures to prevent the disclosure of the information contained in Tab F to anyone other than those who have been selected to have access for limited purposes, and [I intend/my company intends] to continue to take such measures.
5. [I consider/My company considers] the information contained in Tab F to have value and provides an advantage or an opportunity to obtain an advantage over those who do not know or use it.
6. All of the information in Tab F is not and has not been reasonably obtainable, without [my/our] consent, by other persons by use of legitimate means.
7. All of information in Tab F is not publicly available elsewhere.
8. I am the person for Florida Polytechnic University to contact in the event a challenge to any information contained in this Affidavit is received.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_  
(State).

Affiant- Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Affiant Signature: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Sworn to or affirmed and signed before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (Affiant).

\_\_\_\_\_  
NOTARY PUBLIC

Personally Known

Produced identification (Type of ID)